for participating reserve component self-employed individuals, and for other purposes.

S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 257

At the request of Mr. NELSON of Florida, the names of the Senator from Nevada (Mr. REID) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 257, a bill to amend title 38, United States Code, to clarify the applicability of the prohibition on assignment of veterans benefits to agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation, and for there purposes.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 296

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 296, a bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial.

S. 312

At the request of Mr. ROCKEFELLER, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 312, a bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program.

S. 338

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 349 , a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 397

At the request of Mr. ENSIGN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 397, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes.

S. 424

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 424, a bill to establish, reauthorize, and improve energy programs relating to Indian tribes.

S. 457

At the request of Mr. LEAHY, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 460

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 460, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program.

S. 470

At the request of Mr. SARBANES, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 504

At the request of Mr. ALEXANDER, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 504, a bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 507

At the request of Ms. SNOWE, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 507, a bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

S. 516

At the request of Mr. BUNNING, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 534

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 534, a bill to provide Capitol-flown flags to the immediate family of fire fighters, law enforcement officers, emergency medical technicians, and other rescue workers who are killed in the line of duty.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as ''National Visiting Nurse Association Week''.

S. CON. RES. 13

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 13, a concurrent resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

S. RES. 46

At the request of Mr. BINGAMAN, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. Res. 46, A resolution designating March 31, 2003, as ''National Civilian Conservation Corps Day''.

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. Res. 48, A resolution designating April 2003 as ''Financial Literacy for Youth Month''.

S. RES. 77

At the request of Mr. DASCHLE, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Arkansas (Mr. PRYOR), the Senator from Maryland (Mr. SARBANES), the Senator from West Virginia (Mr. BYRD), the Senator from Michigan (Mr. LEVIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. Res. 77, A resolution expressing the sense of the Senate that one of the most grave threats facing the United States is the proliferation of weapons of mass destruction, to underscore the need for a comprehensive strategy for dealing with this threat, and to set forth basic principles that should underpin this strategy.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself, Mr. BOND, Mr. TALENT, Mrs. DOLE, Mr. MCCAIN, Mr. COLEMAN, and Mrs. HUTCHISON):

S. 545. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, today I am introducing a bill that will provide revolutionary changes to the health insurance choices available for small businesses. This bill, ''The Small Business Health Fairness Act of 2003'' will give small businesses the same market-based advantages and leverage that large employers and unions currently enjoy to provide health insurance for their employees.

One month ago, I convened my first hearing as Chair of the Committee on Small Business and Entrepreneurship to explore the crisis small businesses are currently facing in their attempts to find affordable health care for their employees. The reason I made this my first hearing was that whenever I spoke to small businesses this is the number one issue they wanted to discuss. Small businesses in my State are literally desperate for more health insurance options; some business owners even say this is keeping them awake at night.

At the hearing small businesses from my home State of Maine made it clear that they have only one choice for their health care. Even when they band together in local purchasing pools, they are unable to attract any other insurance carriers to provide them with less expensive and more flexible options. Even though they have cut back on the coverage and increased the costs to the employees, they are still finding it almost impossible to provide health insurance to their employees. And as the costs to the employees increases, many employees find this too much to absorb, which leaves them uncovered and, therefore, increase the ranks of the employed but uninsured.

Indeed, the Washington Post reported on February 28 that worries about rising health care costs registered higher in a poll conducted by the Kaiser Family Foundation than even concerns over the stock market or terrorist attacks. Thirty-eight percent of the respondents were ''very worried'' that the cost of their health care or health insurance would increase compared to 22 percent who were ''very worried'' about losing their savings in the stock market, or 19 percent who were ''very worried'' about being a victim of a terrorist attack.

With small businesses creating up to 75 percent of net new jobs in America and with a shocking 56 percent of the 41.2 million uninsured in this country already either working a full-time, full-year job or depending on one who does, we have an obligation to ensure that more of these individuals can receive insurance through their employers. So when the Kaiser 2002 Employer Health Benefits Survey reports that only 61 percent of all small businesses are offering health benefits—and that's down from 67 percent just three years ago—is there any question that we're headed in exactly the wrong direction?

This is a crisis, and it's even worse in businesses with fewer than 50 employees. Of those, only 47 percent currently provide health insurance benefits, and the Department of Labor reports that only 24 percent of small businesses that employ ''low-wage'' workers offer health plans.

The fact is, with more than two-thirds of all Americans relying on their employer for health insurance, we can't afford to continue the disturbing trend identified by the Kaiser Family Foundation, where monthly premiums for employer-sponsored health insurance on average rose 11 percent from 2000 to 2001, and then 12.7 percent from 2001 to 2002—the second straight year of double digit increases. As a result, 22 percent of all firms increased employee deductibles in 2002, and 32 percent told Kaiser they are likely to do so this year.

The problem is all the more acute for small businesses. For those with fewer than 10 workers, the employer and employees together pay—on average—about 8 percent more in premiums than the amount paid by larger companies. And for all firms under 200 employees, 84 percent indicated to Kaiser that cost was an important factor in not offering health care.

The result of all this isn't hard to predict. Businesses can and clearly are dropping health benefits. Others struggle onward in providing coverage, but only at the cost of the growth of the business, or offering packages with higher premiums, or a combination of both.

If we can do something that will help more small businesses provide health insurance to their employees, then we can significantly reduce the number of those who are without health insurance in this country.

The Small Business Health Fairness Act of 2003 will improve access to affordable health care for small businesses by giving them the same advantages currently enjoyed by large employers and unions. The bill employs a very basic principle—that volume purchasing of insurance by small businesses will work as it does for any other commodity and for any large business or union that purchases health insurance coverage—it will help reduce the cost. As President Bush has said, ''It makes no sense in America to isolate small businesses as little health care islands unto themselves. We must have association health plans.''

The Act will allow small businesses to pool together nationally, under the auspices of their bona fide associations, and either purchase their insurance from a provider, or self-insure in the same way that large employers and unions currently do. These association health plans, AHPS, would be monitored and regulated by the Department of Labor's Employee Benefits Security Administration in the same way that more than 275,000 plans offered by large employers and unions are currently regulated.

This agency is currently overseeing plans that cover 72 million people. The Department of Labor released a report last week that reveals high rates of compliance by group health plans with health care laws enacted under the Employee Retirement Income Security Act, ERISA. More importantly, the report and the compliance project that is the subject of the report, are further evidence of the Labor Department's commitment and proven success in effectively monitoring health plans. The report establishes that the Department is prepared to oversee association health plans.

Studies by the Small Business Administration, the General Accounting Office, and the Congressional Budget Office have all found that these types of plans operate with between 13 and 30 percent lower administrative costs. These lower costs can then be translated into reducing costs to subscribers or providing more benefits.

Another reason AHPs will be able to offer less expensive plans, and also greater flexibility, is because they will be exempt from the myriad State benefit regulations. Associations will be able to design their plans to meet the needs of their members and their employees. By administering one national plan, it will further reduce the administrative costs instead of trying to administer a plan subject to the mandates of each State.

Even though the benefit mandates will not be in effect, associations will need to design their plans so that enough members participate in them to attract the necessary employees to make them work. This means that they will naturally provide a full range of benefits similar to what many States currently require. In many cases, the plans offered by large employers and unions, which are also exempt from the State benefit mandates, are the most generous plans available. People will often stay in those jobs specifically to keep their health care coverage.

The Act would also provide extensive new protections to ensure that the health care coverage was there when employees need it. Associations sponsoring these plans would need to be established for at least three years for purposes other than providing health insurance—this is intended to prevent the current epidemic of fraud and abuse that is occurring through sham associations who take money from unsuspecting small businesses and then cease to exist when some files a claim.

In addition, association health plans would be required to have sufficient funds in reserve, specific stop-loss insurances, indemnification insurance, and other funding and certification requirements to make sure the insurance coverage would be available when needed. None of these requirements apply

to any of the plans currently regulated by the Department of Labor, either the large employer plans under the Employee Retirement Income Security Act, ERISA, or the union plans under the Taft-Hartley Act.

The approach of this bill is, I believe, a good one—but I also consider it a starting point. And in that light, I intend to work with all groups and interested parties that are committed to passing this bill so that we can improve this bill and finally provide small businesses with more health insurance options at lower costs. The current situation is simply unacceptable. Those who oppose this bill and believe the status quo only needs to be modified slightly are not paying attention—they are not listening to the millions of small businesses who are desperate for more choices, or the small employers who are unable to get health insurance at any cost.

The time for stalling on providing relief for small businesses unable to get affordable health insurance is over. We must act now, and we must pass the Small Business Health Fairness Act of 2003 to bring small businesses more choices and use the power of competition to bring them better options.

I ask unanimous consent that the text of The Small Business Health Fairness Act of 2003 and an explanation of its provisions be printed in the RECORD.

There being no objection, the bill and additional material was ordered to be printed in the RECORD, as follows:

S. 545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Health Fairness Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Rules governing association health plans.
''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS
''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Definitions and rules of construction.
Sec. 3. Clarification of treatment of single employer arrangements.
Sec. 4. Clarification of treatment of certain collectively bargained arrangements.
Sec. 5. Enforcement provisions relating to association health plans.
Sec. 6. Cooperation between Federal and State authorities.
Sec. 7. Effective date and transitional and other rules.

SEC. 2. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''SEC. 801. ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—The applicable authority shall prescribe by regulation, through negotiated rulemaking, a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

''(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

''(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation, through negotiated rulemaking, for continued certification of association health plans under this part.

''(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

''(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

''(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2003,

''(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

''(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations which the Secretary shall prescribe through negotiated rulemaking.

''SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(B) LIMITATION.—

''(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

''(C) CERTAIN PLANS EXCLUDED.—Subparagraph (A) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2003.

''(D) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation, through negotiated rulemaking, define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

''(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

''(1) IN GENERAL.—In the case of a group health plan described in paragraph (2)—

''(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met;

''(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met; and

''(C) the requirements of section 804 shall be deemed met.

''(2) REQUIREMENTS.—A group health plan is described in this paragraph if—

''(A) the plan is a multiemployer plan; or

''(B) the plan is in existence on April 1, 2003, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

''(3) CONSTRUCTION.—A group health plan described in paragraph (2) shall only be treated as an association health plan under this part if the sponsor of the plan applies for, and obtains, certification of the plan as an association health plan under this part.

''SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor,

''(B) the sponsor, or

''(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the beneficiaries of individuals described in subparagraph (A).

''(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

''(1) the affiliated member was an affiliated member on the date of certification under this part; or

''(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

''(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

''SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

''(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

''(C) incorporates the requirements of section 806.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

''(i) setting contribution rates based on the claims experience of the plan; or

''(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

''(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

''(4) MARKETING REQUIREMENTS.—

''(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

''(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

''(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation through negotiated rulemaking.

''(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

''SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

''(1) the benefits under the plan consist solely of health insurance coverage; or

''(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

''(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

''(i) a reserve sufficient for unearned contributions;

''(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

''(iii) a reserve sufficient for any other obligations of the plan; and

''(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

''(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

''(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation, through negotiated rulemaking, provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

''(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

''(1) $500,000, or

''(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

''(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

''(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

''(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

''(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

''(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

''(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

''(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

''(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

''(3) ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

''(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

''(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

''(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term 'specific excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

''(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe through negotiated

rulemaking) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

''(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation through negotiated rulemaking); and

''(3) which allows for payment of premiums by any third party on behalf of the insured plan.

''(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe through negotiated rulemaking.

''(j) SOLVENCY STANDARDS WORKING GROUP.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2003, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

''(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

''(A) a representative of the National Association of Insurance Commissioners;

''(B) a representative of the American Academy of Actuaries;

''(C) a representative of the State governments, or their interests;

''(D) a representative of existing self-insured arrangements, or their interests;

''(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

''(F) a representative of multiemployer plans that are group health plans, or their interests.

''SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority through negotiated rulemaking, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

''(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

''(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe through negotiated rulemaking.

''(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

''(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

''(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

''(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation through negotiated rulemaking, as necessary to carry out the purposes of this part.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation through negotiated rulemaking. The applicable authority may require by regulation, through negotiated rulemaking, prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 503B by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 503C(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation through negotiated rulemaking such interim reports as it considers appropriate.

''(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

''(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

''(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

''SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

''(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation through negotiated rulemaking.

''SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

''(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately

notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

''(b) MANDATORY TERMINATION.—In any case in which—

''(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

''(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

''SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation through negotiated rulemaking, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

''(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

''(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

''(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

''(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

''(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

''(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

''(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

''(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation through negotiated rulemaking or required by any order of the court;

''(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

''(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

''(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

''(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

''(1) the sponsor and plan administrator;

''(2) each participant;

''(3) each participating employer; and

''(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

''(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

''(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

''(f) JURISDICTION OF COURT.—

''(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

''(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

''(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary through negotiated rulemaking, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

''SEC. 811. STATE ASSESSMENT AUTHORITY.

''(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2003.

''(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

''(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

''(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

''(3) such tax is otherwise nondiscriminatory; and

''(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

''SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

''(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(5) APPLICABLE AUTHORITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable authority' means, in connection with an association health plan—

''(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan; or

''(ii) if there if no State referred to in clause (i), the Secretary.

''(B) EXCEPTIONS.—

''(i) JOINT AUTHORITIES.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

''(ii) REGULATORY AUTHORITIES.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 806(j), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation through negotiated rulemaking.

''(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

''(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

''(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, a person eligible to be a member of the sponsor or one of its member associations.

''(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

''(b) RULES OF CONSTRUCTION.—

''(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (e)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

''(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

''(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

''(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

''(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

''(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.''.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking ''and'' at the end;

(B) in clause (ii), by inserting ''and which does not provide medical care (within the meaning of section 733(a)(2)),'' after ''arrangement,'', and by striking ''title.'' and inserting ''title, and''; and

(C) by adding at the end the following new clause:

''(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.''.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking ''Nothing'' and inserting ''(1) Except as provided in paragraph (2), nothing''; and

(B) by adding at the end the following new paragraph:

''(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Fairness Act of 2003 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence:

''Such term also includes a person serving as the sponsor of an association health plan under part 8.''.

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: ''An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.''.

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ''or part 8'' after ''this part''.

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2008, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Definitions and rules of construction.''.

SEC. 3. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting ''for any plan year of any such plan, or any fiscal year of any such other arrangement;'' after ''single employer'', and by inserting ''during such year or at any time during the preceding 1-year period'' after ''control group'';

(2) in clause (iii)—

(A) by striking ''common control shall not be based on an interest of less than 25 percent'' and inserting ''an interest of greater than 25 percent may not be required as the minimum interest necessary for common control''; and

(B) by striking ''similar to'' and inserting ''consistent and coextensive with'';

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

''(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement;''.

SEC. 4. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

''(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E);''.

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

''(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

''(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

''(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

''(II) pay any type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations prescribed by the Secretary through negotiated rulemaking), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

''(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are neither—

''(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

''(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment),

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Small Business Health Fairness Act of 2003 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

''(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed by the Secretary through negotiated rulemaking that the plan or other arrangement meets the requirements of clauses (i) and (ii).

''(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

''(ii)(I) the plan or arrangement is a multiemployer plan; and

''(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

''(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) the plan or arrangement is in effect as of the date of the enactment of the Small Business Health Fairness Act of 2003; or

''(ii) the employee organization or other entity sponsoring the plan or arrangement—

''(I) has been in existence for at least 3 years; or

''(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.''.

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: ''Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).''.

SEC. 5. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''SEC. 501.''; and

(2) by adding at the end the following new subsection:

''(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being an association health plan which has been certified under part 8;

''(2) having been established or maintained under or pursuant to one or more collective

bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

''(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met,

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.''.

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132), as amended by sections 141 and 143, is further amended by adding at the end the following new subsection:

''(p) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

''(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

''(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

''(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

''(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

''(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

''(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

''(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.''.

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133), as amended by section 301(b), is amended by adding at the end the following new subsection:

''(c) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.''.

SEC. 6. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(c) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State to with which consultation is required. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.''.

SEC. 7. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by sections 2, 5, and 6 shall take effect one year from the date of the enactment. The amendments made by sections 3 and 4 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle within one year from the date of the enactment. Such regulations shall be issued through negotiated rulemaking.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 2) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on the date of the enactment of this Act, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''association health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

THE SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

SEC. 421. RULES GOVERNING ASSOCIATION HEALTH PLANS

Subsection (a). Rules Governing Regulation of Association Health Plans.

This subsection adds a new Part 8 (Rules Governing Regulation of Association Health Plans) to Title I, Subtitle B of ERISA, as follows:

SEC. 801. ASSOCIATION HEALTH PLANS.

(a) The term ''association health plan'' means a ''group health plan'' (which is defined in ERISA as added by the Health Insurance Portability and Accountability Act or HIPAA; under HIPAA such group health plans are subject to all of the portability, preexisting condition, nondiscriminating, special enrollment, renewability and other provisions of ERISA Part 7)—

(b) The sponsor of an Association Health Plan (AHP) must be:

(1) Organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for at least annual meetings, as a trade association, and industry association (including a rural electric or rural telephone cooperative), a professional association, or a chamber of commerce (or similar business group, include a similar organization that operates on a cooperative basis within the meaning of section 1381 of the Internal Revenue Code), for substantial purposes other than that of obtaining or providing medical care.

(2) Is established as a permanent entity which receives the active support of its members, and collects dues from its members on a periodic basis;

(3) Does not condition membership, dues or coverage under the health plan on the basis of health status-related factors with respect to employees of members, and does not condition such dues on the basis of the member's participation in the group health plan.

In addition to the associations described above, certain other entities are eligible to seek certification as AHPs. These include (1) franchise networks (section 803(c)), and (2) multiemployer plans and certain existing collectively bargained arrangements which fail to meet the statutory exemption criteria (section 803(d)).

SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

This section establishes a procedure for the certification of Association Health Plans as prescribed by the Secretary of Labor or other applicable authority (applicable authority). In the case of an association health plan that provides at least one benefit option that does not consist of health insurance coverage, the applicable authority shall grant certification only if the applicable requirements are met (or, upon the date on which the plan is to commence operations, will be met). Such self-insured association health plans may only be certified if they also (1) offered such coverage on the date of enactment of this Act; (2) the sponsor does not restrict membership to one or more trades or businesses or industries and whose

eligible participating employers represent a broad cross-section of trades or businesses or industries; and (3) the plan's eligible participating employers represent one or more trades or businesses, or one or more industries, which have been indicated as having average or above-average health insurance risk or health claims experience by reason of state rate filings, denials of coverage, or proposed premium rate levels, or other means demonstrated by such plan in accord with regulations prescribed through negotiated rulemaking by the applicable authority.

The applicable authority may provide by regulation for continued certification of association health plans. A ''class certification'' procedure is established to speed the approval of plans that offer only fully-insured health insurance coverage.

In essence, this procedure has the same effect as requiring the Secretary to implement authority under current law to issue exemptions for association health plans (see ERISA section 514(b)(6)(B)). An AHP that is certified must also meet the applicable requirements of Part 8 as described below.

SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

This section establishes additional eligibility requirements for AHPs. Applicants must demonstrate that the arrangement's sponsor has been in existence for a continuous period of at least three years for substantial purposes other than providing coverage under a group health plan.

Subsection (b) also requires that the plan be operated, pursuant to trust agreement, by a ''board of trustees'' which has complete fiscal control and which is responsible for all operations of the plan. The board of trustees must develop rules of operation and financial control based on a three-year plan of operation which is adequate to carry out the terms of the plan and to meet all applicable requirements of the certification and Title I of ERISA. The board of trustees must consist of individuals who are owners, officers, directors or employees of the employers who participate in the plan.

In addition to the association described in section 801, certain other entities are made eligible to seek certification as AHPs. These include (1) franchise networks (section 803(c)) and (2) multiemployer plans and certain existing collectively bargained arrangements which fail to meet the statutory exemption criteria (section 803(d)).

SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

This section prohibits discrimination against eligible employers and employees by requiring that all employers who are association members be eligible for participation under the terms of the plan, that eligible employers be informed of all benefit options available, and that eligible individuals of such participating employers not be excluded from enrolling in the plan because of health status. Plans may include minimum participation, contribution, and size requirements to the extent that they meet the nondiscrimination and other rules under sections 701, 702, and 703. Affiliated members of the plan sponsor may be offered overage if they are affiliated at the time of certification or if they were previously uninsured for 12 months prior to being covered. The legislation will not affect the individual health insurance market adversely inasmuch as the bill requires that no participating employer may exclude an employee from enrollment under an AHP by purchasing an individual policy of health insurance coverage for such person based on his or her health status.

SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

Section 805 requires an association health plan to meet the following requirements: (1) its governing instruments must provide that the board of trustees serves as the named fiduciary and plan administrator, that the sponsor serves as plan sponsor, and that the reserve requirements of section 806 are met; (2) the contribution rates for any particular employer must be nondiscriminatory—they can not vary only on the claims experience of the particular employer or on the type of business or industry in which the employer is engaged, regardless of how much such claims may be above or below average claims experience, (3) the plan has at least 1,000 participants and beneficiaries if the plan does not consist solely of fully-insured health insurance coverage, (4) utilizes State-licensed insurance agents in the marketing of health insurance benefits under the plan; and (5) the plan meets such other requirements as may be set forth in regulations by the applicable authority.

The rules also stipulate that association health plans must be allowed to design benefit options. Specifically, no provision of state law shall preclude an AHP or health insurance issuer from exercising its discretion in designing the items and services of medical care to be included as health insurance converge under the plan, except to the extent that such law (1) prohibits a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to the matters governed by section 711 (relating to maternal and newborn hospitalization) and section 712 (relating to mental health coverage). In addition, no provision of law shall be construed to preclude an AHP or health insurance issuer from setting contribution rates based on the experience under the plan to the extent such rates are nondiscriminatory as described above.

SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

Section 806 requires AHPs offering benefit options that do not consist solely of fully-insured health insurance coverage to establish and maintain reserves sufficient for unearned contributions, benefit liabilities incurred but not yet satisfied and for which risk of loss has not been transferred, expected administrative costs, any other obligations and a margin for error recommended by the plan's qualified actuary. In addition, the AHP must maintain minimum surplus reserves of $500,000 or such greater amount (up to $2,000,000) as the applicable authority may prescribe. Also, each plan must secure coverage from an insurer consisting of (1) aggregate stop-loss insurance with an attachment point not greater than 125 percent of expected gross claims; (2) specific stop-loss insurance with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary; and (3) to prevent insolvency, indemnification for any claims which a plan is unable to satisfy by reason of a mandatory termination described under section 809(b). The applicable authority may provide additional requirements relating to reserves and excess/stop loss insurance and may provide adjustments to the levels of reserves otherwise required to take into account the level of excess/stop loss insurance or other financial arrangements.

the bill also establishes an ''Association Health Plan Fund'' which is to be managed by the Department of Labor for the purpose of making payments to cover any outstanding benefit claims which are not fulfilled in accord with the solvency standards described above. All certified AHPs will pay $5,000 into the fund annually, and this amount may be altered according to need by the Secretary.

The bill also establishes a ''Solvency Standards Working Group'' for the purpose of providing input to the applicable authority with respect to solvency requirements for AHPs certified under the Act. The Working Group shall consist of not more than 15 members appointed by the applicable authority, and shall include: (1) a representative of the NAIC, (2) a representative of the American Academy of Actuaries; (3) a representative of the State governments; (4) a representative of existing self-insured health plans; (5) a representative bona fide associations eligible to sponsor an AHP under the Act; and (6) a representative of multiemployer group health plans.

SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

This section sets forth additional criteria which association health plans must meet to qualify for certification. The Secretary shall grant certification to a plan only if: (1) a complete application has been filed, accompanied by the filing fee of $5,000; and (2) all other terms of the certification are met (including financial, actuarial, reporting, participation, and such other requirements as may be specified as a condition of the certification).

The application must include the following: (1) identifying information about the arrangement and the states in which it will operate: (2) evidence that ERISA's bonding requirements will be met; (3) copies of all plan documents and agreements with service providers; (4) a funding report indicating that the reserve requirements of section 806 will be met, that contribution rates will be adequate to cover obligations, and that a qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards that the Secretary considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the applicable authority. Certified association health plans must notify by the applicable authority of any material changes in this information at any time, must file annual reports with the applicable authority, and must engage a qualified actuary.

AHPs are also required to file their certification with the applicable state authority of each state in which at least 25 percent of the participants and beneficiaries under the plan are located.

SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

Section 808 requires that, except as provided in section 809, and AHP may terminate only if the board of trustees provides 60 days advance written notice to participants and beneficiaries and submits to the applicable authority a plan providing for timely payment of all benefit obligations.

SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

Section 809 requires an AHP which offers benefit options which are not fully-insured to continue to meet the reserve requirements under section 806 even if its exemption is no longer in effect. The board of trustees of such an AHP must quarterly determine whether the reserve requirements of section 806 are being met and, if they are not, must, in consultation with the qualified actuary, develop a plan to ensure compliance and report such information to the applicable authority. In any case where an AHP notifies the applicable authority that it has failed to meet the reserve requirements and corrective action has not restored compliance, and

the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements applicable to such AHPs, the applicable authority may direct the board to terminate the arrangement.

SEC. 810 TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

Whenever the Secretary determines an AHP won't be able to provide benefits, or is otherwise in financial distress, the Secretary shall apply for appointment as trustee to administer the winding down of the plan.

SEC. 811. STATE ASSESSMENT AUTHORITY.

This section allows a state to assess newly certified AHPs a contribution tax to the same extent they tax health insurance plan. This is intended to enable states to maintain the revenue source for funding high-risk insurance pools.

SEC. 812. DEFINITIONS.

This section defines the following terms: group health plan, medical care, health insurance coverage, health insurance issuer, applicable authority, health status-related factor, individual market, treatment of very small groups, participating employer, applicable state authority, qualified actuary, affiliated member, large employer, and small employer. The terms are consistent with those added to ERISA by HIPAA. In addition, the terms ''employer'' and ''employee'' include self-employed individuals and partners for purposes of the application of Part 8 and the provisions of Title I as applicable to association health plans.

Subsection (b). Conforming Amendments.

This subsection contains (1) conforming changes to the definition of ''plan sponsor'' to include the sponsor of an AHP; (2) conforming changes to the Title I exception for church plans electing association health plan status; and (3) as described below, conforming changes to section 514 preemption rules to reflect the policy changes under Part 8 with respect to association health plans. First, paragraph (6) of section 514(b) is made inapplicable with respect to any state law in the case of a certified AHP. Second, a new subsection 514(d) (current subsection (d) is redesignated as (e)) clarifies the ability of health insurance issuers to offer health insurance coverage under AHPs and clarifies the ability of any health insurance issuer to offer health insurance coverage of the same policy type as offered in connection with a particular AHP to eligible employers, regardless of whether such employers choose or do not choose to become members of the particular association. Health insurance coverage policy forms filed and approved in a particular state in connection with an insurer's offering under an association health plan are deemed to be approved in any other state in which such coverage is offered when the insurer provides a complete filing in the same form and manner to the authority in the other state. Also, this section removes the current restriction on state regulation of self-insured multiple employer welfare arrangements providing medical care (which do not elect to meet the certification requirements for AHPs) under section 514(b)(6)(a)(ii) by eliminating the requirement that such state laws otherwise ''be consistent with the provisions of ERISA Title I.'' Section 514 is also amended to include a cross-reference to section 805(b) (relating to the ability of AHPs and health insurance issuers to design association health insurance options) and to section 805(a)(2)(B) (relating to the ability of AHPs and health insurance issuers to base contribution rates on the experience of such plans).

SEC. 422. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENT.

This section modifies the treatment of certain single employer arrangements under the section of ERISA that defines a multiple employer welfare arrangement (section 3(40). The treatment of a single employer plan as being excluded from the definition of such an arrangement (and thus from state law) is clarified by defining the minimum interest required for two or more entities to be in ''common control'' as a percentage which can not be required to be greater than 25 percent. Also, a plan would be considered a single employer plan if less than 25 percent of the covered employees are employed by other participating employers.

SEC. 423. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

This section clarified the conditions under which multiemployer and other collectively bargained arrangements are exempted from the definition of a multiple employer welfare arrangement, and thus exempt from state law. This is intended to address the problem of ''bogus unions'' and other illegitimate health insurance operators. The provision amends the definition of such an arrangement to exclude a plan or arrangement which is established or maintained under or pursuant to a collective bargaining arrangement (as described in the National Labor Relations Act, the Railway Labor Act, and similar state public employee relation laws). Current law requires the Secretary to ''find'' that a collective bargaining agreement exists, but no such finding has ever been issued. It then specifies additional conditions which must be met for such a plan to be a statutorily excluded collectively bargained arrangement, and thus not a multiple employer welfare arrangement. These include:

(1) The plan can not utilize the services of any licensed insurance agent or broker to solicit or enroll employers or pay a commission or other form of compensation to certain persons that is related to the volume or number of employers or individuals solicited or enrolled in the plan.

(2) A maximum 15 percent rule applies to the number of covered individuals in the plan who are not employees (or their beneficiaries) within a bargaining unit covered by any of the collective bargaining agreements with a participating employer or who are not present or former employees (or their beneficiaries) of sponsoring employee organizations or employers who are or were a party to any of the collective bargaining agreements.

(3) The employee organization or other entity sponsoring the plan or arrangement must certify annually to the Secretary the plan has met the previous requirements.

(4) If the plan or arrangement is not fully insured, it must be a multiemployer plan meeting specific requirements of the Labor Management Relations Act (i.e., the requirement for joint labor-management trusteeship under section 302(c)(5)(B)).

(5) If the plan or arrangement is not in effect as of the date of enactment, the employee organization or other entity sponsoring the plan or arrangement must have existed for at least three years or have been affiliated with another employee organization in existence for at least three years, or demonstrate to the Secretary that certain of the above requirements have been met.

SEC. 424. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

This section amends ERISA to establish enforcement provisions relating to association health plans and multiple employer welfare arrangements: (1) willful misrepresentation that an entity is an exempted AHP or collectively-bargained arrangement may result in criminal penalties: (2) the section provides for cease activity orders for arrangements found to be neither licensed, registered, or otherwise approved under State insurance law, or operating in accordance with the terms of the certification granted by the Secretary under Part 8; and (3) the section provides for the responsibility of the named fiduciary or board of trustees of an AHP to comply with the required claims procedure under ERISA.

SEC. 425. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES

This section amends section 506 of ERISA (relating to coordination and responsibility of agencies enforcing ERISA and related laws) to require the Secretary of Labor to consult with state insurance departments with regard to the Secretary's authority under section 502 and 504 to enforce provisions applicable to certified AHPs.

SEC. 426. EFFECTIVE DATE; TRANSITIONAL RULES.

In general, the amendments made by Section 421, 424, and 425 of the Act are effective one year after enactment of the Act. Sections 422 and 423 are effective upon date of enactment. In addition, the Secretary is required to issue all regulations needed to carry out the amendments within one year after enactment of the Act.

The provisions of section 805(a)(2) relating to health insurance coverage do not apply to group health plans existing on the date of enactment if they do not provide health insurance coverage, but later qualify for certification.

AHPs not in existence on the date of enactment and desiring to offer benefits which do not consist of health insurance must demonstrate to the Secretary that their risk is at least average or above average. The Secretary shall report to Congress the affect on reducing the number of uninsured after five years.

By Mr. AKAKA (for himself, Mr. BAUCUS, Mr. CAMPBELL, Mr. DURBIN, Mrs. FEINSTEIN, Mr. ROBERTS, and Mr. LEAHY):

S. 546. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce The Paleontological Resources Preservation Act to protect and preserve the Nation's important fossil record for the benefit of our citizens. I am pleased to have Senators BAUCUS, CAMPBELL, DURBIN, FEINSTEIN, LEAHY, and ROBERTS join me as original cosponsors on this significant legislation.

This bill was reported favorably by the Energy and Natural Resources Committee, and approved by unanimous consent during the 107th Congress. I plan to work closely with my colleagues to enact this bill during the 108th Congress.

In 1999, Congress requested that the Secretary of the Interior review and report on the Federal policy concerning paleontological resources on Federal lands. In its request, Congress noted that no unified Federal policy existed regarding the treatment of fossils by Federal land management agencies, and emphasized Congress's concerns that lack of appropriate standards

would lead to the deterioration or loss of fossils, which are valuable scientific resources.

In response, seven Federal agencies and the Smithsonian Institution released a report in May 2000 entitled ''Assessment of Fossil Management on Federal and Indian Lands.'' This assessment outlined governing principles for the management of fossils on Federal lands. The report recommended that penalties for fossil theft be strengthened and that Federal fossil collections be preserved and available for research and public education. The interagency group also stated that fossils on Federal lands are rare and a part of America's heritage and that effective stewardship requires accurate information and inventories.

The Paleontological Resources Preservation Act embodies these principles, and provides the paleontological equivalent of protections found in the Archeological Resources Preservation Act. The bill finds that fossil resources on Federal lands are an irreplaceable part of the heritage of the United States. It affirms that reasonable access to fossil resources should be provided for scientific, educational, and recreational purposes. The bill acknowledges the value of amateur collecting, but protects vertebrate fossils found on Federal lands under a system of permits.

I would like to emphasize that this bill in no way affects archaeological or cultural resources under the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Rehabilitation Act. They are exempted. This bill covers paleontological remains—fossils on Federal lands only.

As we look toward the future, public access to fossil resources will take on a new meaning as digital images of fossils become available worldwide. The National Museum of Natural History, one of the premier Smithsonian museums, already has an online catalogue of 9 million specimens, some of which include digital images. Museums will be able to provide global access for researchers, collectors, and educators to study fossil collections through online catalogs and images. Many scientists in developing countries currently lack vital information about fossils because they cannot afford travel costs to museums. This digital advance will truly make fossils a global resource for the public.

Discoveries in paleontology are made more frequently than we realize. They shape how we learn about the world around us. In January of this year, Nature reported that Chinese scientists at Beijing's Institute of Vertebrate Paleontology and Paleoanthropology discovered several four-winged dinosaur fossils. This discovery is providing us with critical insight into the phenomenon of flight. The Paleontological Resources Preservation Act would create a legacy of scientific knowledge for future generations.

The protections offered in this Act are not new. Federal land management agencies have individual regulations prohibiting theft of government property. However, the reality is that U.S. Attorneys are reluctant to prosecute cases involving fossil theft because they are difficult. Congress has not provided a clear statute stating the value of paleontological resources to our Nation, as has been provided for archeological resources. Fossils are too valuable to be left within the general theft provisions that are difficult to prosecute, and they are too valuable to the education of our children not to ensure public access. We need to work together to make sure that we fulfill our responsibility as stewards of public lands, and as protectors of our Nation's natural resources.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Paleontological Resources Preservation Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Paleontological resources are nonrenewable. Such resources on Federal lands are an accessible and irreplaceable part of the heritage of the United States and offer significant educational opportunities to all citizens.

(2) Existing Federal laws, statutes, and other provisions that manage paleontological resources are not articulated in a unified national policy for Federal land management agencies and the public. Such a policy is needed to improve scientific understanding, to promote responsible stewardship, and to facilitate the enhancement of responsible paleontological collecting activities on Federal lands.

(3) Consistent with the statutory provisions applicable to each Federal land management system, reasonable access to paleontological resources on Federal lands should be provided for scientific, educational, and recreational purposes.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a comprehensive national policy for preserving and managing paleontological resources on Federal lands.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term ''casual collecting'' means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for personal (scientific, educational, or recreational) use, either by surface collection or using nonpowered hand tools resulting in only negligible disturbance to the Earth's surface and other resources.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior with respect to lands administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term ''Federal lands'' means lands administered by the Secretary of the Interior, except Indian lands, or National Forest System Lands administered by the Secretary of Agriculture.

(4) INDIAN LANDS.—The term ''Indian Lands'' means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) STATE.—The term ''State'' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term ''paleontological resource'' means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Rehabilitation Act (25 U.S.C. 3001)).

SEC. 5. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION OF IMPLEMENTATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands administered by the Bureau of Land Management, the Bureau of Reclamation, and the U.S. Forest Service, where such collection is not inconsistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 9 or is assessed a civil penalty under section 10.

(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 8. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 9. PROHIBITED ACTS; PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, exchanged, transported, or received from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALITIES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be guilty of a class A misdemeanor.

(2) DAMAGE OVER $1,000.—If the sum of the scientific or fair market value of the paleontological resources involved and the cost of restoration and repair of such resources exceeds the sum of $1,000, such person shall, upon conviction, be guilty of a class E felony.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent such violation, such person shall, upon conviction, be guilty of a class D felony.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any palentological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS OR PERMIT CONDITIONS.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved.

(B) The cost of response, restoration, and repair of the resource and the paleontolgical site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order with an appropriate Federal district court within the 30-day period beginning on the date the order making the assessment was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about palenotological resources and sites.

(3) To provide for the payment of Rewards as provided in section 11.

SEC. 11. REWARDS FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under section 9 or 10 of this Act an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 9 or 10 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, may be subject to forfeiture to the United States upon—

(1) the person's conviction of the violation under section 9;

(2) assessment of a civil penalty against any person under section 10 with respect to the violation; or

(3) a determination by any court that the paleontological resources, vehicles, or equipment were involved in the violation.

SEC. 12. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be withheld from the public under subchapter II of chapter 5 of title 5, United States Code, or under any other provision of law unless the responsible Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 13. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 14. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), the Mining in the Parks Act, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time existing laws and authorities relating to reclamation and multiple uses of the public lands;

(3) apply to, or require a permit for, amateur collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontolgical resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mr. DURBIN (for himself and Ms. COLLINS):

S. 547. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I rise today to introduce the Conserve by Bike Act to promote energy conservation and improve public health. I am pleased to be joined by my colleagues from Maine, Senator Susan Collins, in introducing this measure. This legislation addresses one part of our Nation's energy challenges. Although there is no single solution, every possible approach must be considered in order to solve our energy problems.

Our Nation would realize several benefits from the increased use of bicycle transportation, including lessened dependence on foreign oil and prevention of harmful air emissions. Currently, less than one trip in one hundred, .88 percent, is by bicycle. If we can raise our level of cycling to one and a half trips per hundred, which is less than one bike trip every two weeks for the average person, we will save more than 462 million gallons of gasoline in a year, worth more than $721 million. That is the equivalent of one day a year we will not need to import any foreign oil.

In addition to fostering greater independence from foreign oil supplies, this bill will help mitigate air quality challenges, which can be harmful to public health and the environment. Unlike automotive transportation, bicycling is emissions-free.

The Conserve by Bike Act encourages bicycling through two key components: a pilot program and a research project. The Conserve by Bike Pilot Program established by this legislation would be implemented by the U.S. Department of Transportation. The Department would fund up to ten pilots throughout the country that would utilize education and marketing tools to encourage people to convert some of their car trips to bike trips. Each of these pilot projects must: 1. document project results and energy conserved; 2. facilitate partnerships among stakeholders in two or more of the following fields: transportation, law enforcement, education, public health, and the environment; 3. maximize current bicycle facility investments; 4. demonstrate methods that can be replicated in other locations; and 5. produce ongoing programs that are sustained by local resources.

This legislation also directs the Transportation Research Board of the National Academy of Sciences to conduct a research project on converting car trips to bike trips. The study will consider: 1. what car trips Americans can reasonably be expected to make by bike, given such factors as weather, land use, and traffic patterns, carrying capacity of bicycles, and bicycle infrastructure; 2. what energy savings would result, or how much energy could be conserved, if these trips were converted from car to bike; 3. the cost-benefit analysis of bicycle infrastructure investments; and 4. what factors could encourage more car trips to be replaced with bike trips. The study also will identify lessons we can learn from the documented results of the pilot programs.

The Conserve by Bike Program is a small investment that has the potential to produce significant returns: greater independence from foreign oil and a healthier environment and population. The Conserve by Bike Act authorizes a total of $6.2 million to carry out the pilot programs and research. A total of $5,150,000 will be used to implement the pilot projects; $300,000 will be used by the Department of Transportation to coordinate, publicize, and disseminate the results of the program; and $750,000 will be utilized for the research study.

The provisions in this bill enjoy strong, bipartisan support and passed as an amendment to last year's Senate energy bill. The measure is endorsed by the League of American Bicyclists, which has over 300,000 affiliates, as well as the Association of Pedestrian and Bicycle Professionals, Rails to Trails Conservancy, Thunderhead Alliance, Bikes Belong Coalition, Adventure Cycling, International Mountain Bicycling Association, Chicagoland Bicycle Federation, and the League of Illinois Bicyclists.

By enacting the Conserve by Bike Act, we can reduce our energy dependence, reduce harmful air emissions, and improve public health. I urge my colleagues to cosponsor the Conserve by Bike Act and join me in making a responsible investment in cleaner, healthier and more energy efficient future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ''program'' means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the ''Conserve by Bicycling Program''.

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (e).

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Illinois in reintroducing this legislation to recognize and promote bicycling's important impact on energy savings and public health.

With America becoming more and more dependent on foreign oil, it is vital that we look to the contribution that bike travel can make toward solving our Nation's energy challenges.

This legislation would establish a Conserve by Bike pilot program that would oversee pilot projects throughout the country designed to conserve energy resources by providing education and marketing tools to convert car trips to bike trips. Right now, fewer than one trip in one hundred is by bicycle. If we could increase this statistic to one and a half trips per hundred, we would save over 462 million gallons of gasoline in a year, worth over $721 million.

While more bike trips would benefit our energy conservation efforts, that would also help improve the public's health. According to the U.S. Surgeon General, fewer than one-third of Americans meet Federal recommendations to engage in at least 30 minutes of moderate physical activity at least 5 days a week. Even more disturbing is the fact that approximately 300,000 U.S. death a year are associated with being obese or overweight. By promoting biking, we are working to ensue that Americans will increase their physical activity.

The Conserve by Bike Act has received widespread support on the national, state, and local level, and I urge my colleagues to support this legislation.

By Mr. ROCKEFELLER:

S. 548. A bill to improve mental health programs for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, as a senior member of the Senate Committee on Veterans' Affairs, I am proud to reintroduce legislation today intended to strengthen mental health programs within the Department of Veterans Affairs a key element of caring for those who have served on the battlefield.

Historically, as many as one-third of all veterans seeking care at VA have received mental health treatment, and research suggests that serious mental illnesses affect at least one-fifth of the veterans who use the VA health care system. About 450,000 of the approximately 2.3 million veterans who receive compensation from VA have service-connected psychiatric and neurological disorders.

I remain concerned about the viability of some of the programs developed to care for veterans with mental health needs. I have heard testimony about a number of these programs endangered by budget constraints and a shift in focus from inpatient care to outpatient clinics. Specialized programs particularly for substance use disorders and PTSD shut down, reduced in size, or understaffed—offering little or no care to veterans suffering from these seriously debilitating disorders.

Congress previously enacted a provision to designate $15 million in VA funding specifically to assist medical facilities in their efforts to improve care for veterans with substance use disorders and PTSD. This additional funding has enabled VA to develop better outpatient substance abuse and PTSD treatment programs, outpatient dual-diagnosis programs, more PTSD community clinical teams, and more residential substance abuse disorder rehabilitation programs.

The funds for these mental health programs, mandated by the Millennium Benefits and Health Care Act of 1999, will soon revert to a general fund. The bill I am introducing today ensures that this funding will remain ''protected'' for three more years and increases the total amount of funding identified specifically for treatment of substance use disorders and PTSD from $15 million to $25 million.

Another provision of the legislation I am introducing today concerns VA's Mental Illness Research, Education, and Clinical Centers, called ''MIRECCs. In 1996, Congress authorized VA to establish five of these centers dedicated to mental illness research, education, and clinical activities. This provision will allow VA to establish up to ten more MIRECCs to study and treat mental illnesses. MIRECCs have encouraged research, given VA caregivers more and better tools to treat patients with mental disorders, and increased our fundamental understanding of mental illnesses. Much more can be done in this area if the program is expanded.

Another critical area of VA care involves counseling and treatment for veterans who were victims of sexual harassment or sexual assault during active military service. In 1992, Congress authorized VA to provide counseling to women who experienced sexual trauma during active military service. Two years later, recognizing that sexual trauma is not limited to women, Congress expanded VA's mandate to offer counseling and treatment regardless of gender. The Veterans Millennium Health Care and Benefits Act of 1999 broadened VA's responsibilities toward victims of sexual trauma even further, strengthening outreach efforts and extending the programs through December 2004. The legislation I am reintroducing today would provide permanent authority to VA for counseling and treatment of veterans who have experienced military sexual trauma, so that veterans and health care professionals can depend upon these critical services.

I hope my colleagues will join me in supporting the expansion of these enormously important mental health programs with the Department of Veterans Affairs. We owe our service men and women no less.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT AUTHORITY FOR COUNSELING AND TREATMENT OF VETERANS FOR SEXUAL TRAUMA.

Section 1720D of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''During the period through December 31, 2004, the Secretary'' and inserting ''The Secretary''; and

(B) in paragraph (2), by striking '', during the period through December 31, 2004,''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''establishment and''; and

(B) in paragraph (2), by striking ''establishing a program'' and inserting ''operating a program''.

SEC. 2. AUTHORITY TO OPERATE ADDITIONAL DEPARTMENT OF VETERANS AFFAIRS CENTERS FOR MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.

Section 7320(b)(3) of title 38, United States Code, is amended by striking ''five centers'' and inserting ''15 centers''.

SEC. 3. IMPROVEMENT OF PROGRAM FOR PROVISION OF SPECIALIZED MENTAL HEALTH SERVICES TO VETERANS.

(a) INCREASE IN FUNDING.—Subsection (c) of section 116 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1559; 38 U.S.C. 1712A note) is amended—

(1) in paragraph (1), by striking ''$15,000,000'' and inserting ''$25,000,000 in each of fiscal years 2004, 2005, and 2006'';

(2) in paragraph (2), by striking ''$15,000,000'' and inserting ''$25,000,000''; and

(3) in paragraph (3)—

(A) by inserting ''(A)'' after ''(3)''; and

(B) by adding at the end the following new subparagraph:

''(B) For purposes of this paragraph, in fiscal years 2004, 2005, and 2006, the fiscal year utilized to determine the baseline amount shall be fiscal year 2003.''.

(b) ALLOCATION OF FUNDS.—Subsection (d) of that section is amended—

(1) by striking ''The Secretary'' and inserting ''(1) In each of fiscal years 2004, 2005, and 2006, the Secretary''; and

(2) by adding at the end the following new paragraphs:

''(2) In allocating funds to facilities in a fiscal year under paragraph (1), the Secretary shall ensure that—

''(A) not less than $10,000,000 is allocated by direct grants to programs that are identified by the Mental Health Strategic Health Care Group and the Committee on Care of Severely Chronically Mentally Ill Veterans;

''(B) not less than $5,000,000 is allocated for programs on post-traumatic stress disorder; and

''(C) not less than $5,000,000 is allocated for programs on substance abuse disorder.

''(3) The Secretary shall provide that the funds to be allocated under this section during each of fiscal years 2004, 2005, and 2006 are funds for a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.''.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. THOMAS):

S. 550. A bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased to be joined by Senators INOUYE and THOMAS in introducing key legislation to help stop Indian land fractionation.

One of the most enduring and damaging legacies of late-19th century Federal Indian policy is the continuing fractionation of Indian trust lands.

The results of this ever-growing problem make it nearly impossible for affected Indian tribes to devise economic development strategies.

By attempting to ''break up the tribal landmass'' and turning Indians into yeoman farmers, the Dawes Act of 1887 resulted in millions of acres of land transferred out of Indian ownership.

By virtue of Indian heirship and probate rules and the steady march of time, millions more acres have passed from their original Indian allottees to thousands of descendants with undivided interests in parcels of land.

In strict economic terms, these interests are practically worthless.

Congressional efforts to counter this problem have focused on the Indian Land Consolidation Act and amendments made to the Act.

Key escheat sections designed to return individual-owned fractionated lands to tribal ownership have been held unconstitutional by the U.S. Supreme Court in 1987, Hodel v. Irving, and in 1997, Babbitt v. Youpee.

Congress and the Administration have also sought to return these interests to tribal ownership through voluntary purchase.

The ''Indian Land Consolidation Program'' was enacted as part of the Fiscal Year 1999 Omnibus Appropriation and has proven a success.

In 1999 I introduced amendments to the ILCA to limit disposition of Indian lands to Indian heirs, life estates to non-Indian heirs, or the tribe with jurisdiction over the lands.

The bill I am re-introducing today was considered by the Committee on Indian Affairs and passed by the Senate last session. In light of this, it is my intention to expedite consideration of the measure.

I urge my colleagues to join me in supporting this important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Indian Probate Reform Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Act of February 8, 1887 (commonly known as the ''Indian General Allotment Act'') (25 U.S.C. 331 et seq.), which authorized the allotment of Indian reservations, did not permit Indian allotment owners to provide for the testamentary disposition of the land that was allotted to them;

(2) that Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment;

(3) the reliance of the Federal Government on the State law of intestate succession with respect to the descent of allotments has resulted in numerous problems affecting Indian tribes, members of Indian tribes, and the Federal Government, including—

(A) the increasingly fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

(B) the application of different rules of intestate succession to each interest of a decedent in or to trust or restricted land if that land is located within the boundaries of more than 1 State, which application—

(i) makes probate planning unnecessarily difficult; and

(ii) impedes efforts to provide probate planning assistance or advice;

(C) the absence of a uniform general probate code for trust and restricted land, which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which—

(i) is unfair to the owners of trust and restricted land (and heirs and devisees of owners); and

(ii) makes probate planning more difficult; and

(4) a uniform Federal probate code would likely—

(A) reduce the number of fractionated interests in trust or restricted land;

(B) facilitate efforts to provide probate planning assistance and advice;

(C) facilitate intertribal efforts to produce tribal probate codes in accordance with section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

(D) provide essential elements of general probate law that are not applicable on the date of enactment of this Act to interests in trust or restricted land.

SEC. 3. INDIAN PROBATE REFORM.

(a) TESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (a) and inserting the following:

''(a) TESTAMENTARY DISPOSITION.—

''(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, or a tribal probate code enacted in accordance with section 206, the owner of an interest in trust or restricted land may devise such an interest to—

''(i) an Indian tribe with jurisdiction over the land; or

''(ii) any Indian in trust or restricted status (or as a passive trust interest as provided for in section 207A).

''(B) STATUS.—The devise of an interest in trust or restricted land to an Indian under subparagraph (A)(ii) shall not alter the status of such an interest as a trust or restricted interest unless the testator provides that the interest is to be held as a passive trust interest.

''(2) DEVISE OF TRUST OR RESTRICTED LAND IN PASSIVE TRUST OR FEE.—

''(A) IN GENERAL.—Except as provided under any applicable Federal law, any interest in trust or restricted land that is not devised in accordance with paragraph (1) may be devised only—

''(i) as a life estate to any non-Indian person, with the remainder being devised only in accordance with clause (ii), subparagraph (C), or paragraph (1)(A);

''(ii) to the lineal descendant or heir of the first or second degree of the testator or, if the testator does not have an heir of the first or second degree or a lineal descendant, to any lineal descendant of an Indian grandparent of the testator, as a passive trust interest (referred to in this section as an 'eligible passive trust devisee'); or

''(iii) in fee in accordance with subparagraph (C).

''(B) PRESUMED DEVISE OF PASSIVE TRUST INTEREST.—Any devise to an eligible passive trust devisee, or any devise of a remainder interest from the devise of a life estate under subparagraph (A)(ii), that does not indicate whether the interest is devised as a passive trust interest or a fee interest shall be considered to devise a passive trust interest.

''(C) DEVISE OF A FEE INTEREST.—Subject to subparagraph (D), any interest in trust or restricted land that is not devised in accordance with paragraph (1), or devised to an eligible passive trust devisee in accordance with subparagraph (A), may be devised to a non-Indian in fee.

''(D) LIMITATION.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464), may be devised only in accordance with—

''(i) that section;

''(ii) subparagraph (A); or

''(iii) paragraph (1).

''(3) DEVISE OF A PASSIVE TRUST INTEREST.—

''(A) IN GENERAL.—The holder of an interest in trust or restricted land that is held as a passive trust interest may devise the interest as a passive trust interest only to—

''(i)(I) any Indian; or

''(II) the Indian tribe that exercises jurisdiction over the interest;

''(ii) the lineal descendants, or heirs of the first or second degree, of the holder;

''(iii) any living descendant of the decedent from whom the holder acquired the interest by devise or descent; or

''(iv) any person that owns a preexisting interest or a passive trust interest in the same parcel of land, if the preexisting interest is held in trust or restricted status or in passive trust status.

''(B) INELIGIBLE DEVISEES AND INTESTATE SUCCESSION.—A passive trust interest that is devised to a person that is not eligible under subparagraph (A) or that is not disposed of by a valid will shall pass in accordance with the applicable law of intestate succession as provided for in subsection (b).''.

(b) NONTESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (b) and inserting the following:

''(b) NONTESTAMENTARY DISPOSITION.—

''(1) RULES OF DESCENT.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any interest in trust or restricted land that is not disposed of by a valid will—

''(A) shall descend according to a tribal probate code that is approved in accordance with section 206; or

''(B) in the case of an interest in trust or restricted land to which such a code does not apply, shall descend in accordance with—

''(i) paragraphs (2) through (7);

''(ii) section 207A; and

''(iii) other applicable Federal law.

''(2) NO APPLICABLE CODE.—An intestate interest to which a code described in paragraph (1) does not apply—

''(A) shall include—

''(i) an interest acquired by a decedent through devise or inheritance (referred to in this subsection as a 'devise or inheritance interest'); or

''(ii) an interest acquired by a decedent by any means other than devise or inheritance (referred to in this subsection as an 'acquired interest'), if—

''(I) the decedent—

''(aa) acquired additional undivided interest in the same parcel in which the interest

is held, by a means other than devise or inheritance; or

''(bb) acquired land adjoining the parcel of land in which the interest is held; or

''(II) the parcel of land in which the interest is held includes the residence of the spouse of the decedent; and

''(B) shall descend as follows:

''(i) SURVIVING INDIAN SPOUSE.—

''(I) IN GENERAL.—If a decedent is survived by an Indian spouse, and the estate of the decedent includes 1 or more acquired interests, the spouse of the decedent shall receive all of the acquired interests.

''(II) DEVISE OR INHERITANCE INTERESTS.—If a decedent is survived by an Indian spouse, and the estate of the decedent includes 1 or more devise or inheritance interests—

''(aa) if the decedent is not survived by an Indian heir of the first or second degree, the spouse of the decedent shall receive all of the devise or inheritance interests; and

''(bb) if the decedent is survived by an Indian heir of the first or second degree, the devise or inheritance interest of the decedent shall descend in accordance with paragraph (3)(A).

''(ii) SURVIVING NON-INDIAN SPOUSE.—

''(I) IN GENERAL.—If a decedent is survived by a non-Indian spouse, and the estate of the decedent includes 1 or more acquired interests—

''(aa) the spouse of the decedent shall receive a life estate in each acquired interest; and

''(aa)(AA) if the decedent is survived by an Indian heir of the first or second degree, the remainder interests shall descend in accordance with paragraph (3)(A); and

''(BB) if the decedent is not survived by an Indian heir of the first or second degree, the remainder interest shall descend in accordance with paragraph (3)(C).

''(II) DEVISE OR INHERITANCE INTERESTS.—If the estate of a decedent described in subclause (I) includes 1 or more devise or inheritance interests—

''(aa) if the decedent is survived by an Indian heir of the first or second degree, the devise or inheritance interests shall descend in accordance with paragraph (3)(A); and

''(bb) if the decedent is not survived by an Indian heir of the first or second degree, the devise or inheritance interests shall descend in accordance with paragraph (3)(C).

''(iii) NO SURVIVING SPOUSE.—If a decedent is not survived by a spouse, and the estate of the decedent includes 1 or more acquired interests or 1 or more devise or inheritance interests—

''(I) if the decedent is survived by an Indian heir of the first or second degree, the acquired interests or devise or inheritance interests shall descend in accordance with paragraph (3)(A); and

''(II) if the decedent is not survived by an Indian heir of the first or second degree, the acquired interests or devise or inheritance interests shall descend in accordance with paragraph (3)(C).

''(3) RULES GOVERNING DESCENT OF ESTATE.—

''(A) INDIAN HEIRS.—For the purpose of this section, an Indian heir of the first or second degree shall inherit in the following order:

''(i) To the Indian children of the decedent (or if 1 or more of those Indian children do not survive the decedent, the Indian children of the deceased child of the decedent, by right of representation) shall inherit in equal shares.

''(ii) If the decedent has no Indian children (or grandchildren that inherit by right of representation under clause (i)), to the Indian brothers and sisters of the decedent, in equal shares.

''(iii) If the decedent has no Indian brothers or sisters, to the Indian parent or parents of the decedent.

''(B) RIGHT OF REPRESENTATION.—In any case involving the determination of a right of representation—

''(i) each interest in trust land shall be equally divided into a number of shares that equals the sum obtained by adding—

''(I) the number of surviving heirs in the nearest degree of kinship; and

''(II) the number of deceased individuals in that same degree, if any, who left issue who survive the decedent;

''(ii) each surviving heir described in clause (i)(I) shall receive 1 share; and

''(iii)(I) each deceased individual described in clause (i)(II) shall receive 1 share; and

''(II) that share shall be divided equally among the surviving issue of the deceased person.

''(C) NO INDIAN HEIRS.—

''(i) DEFINITION OF COLLATERAL HEIR.—In this subparagraph, the term 'collateral heir' means an aunt, uncle, niece, nephew, or first cousin of a decedent.

''(ii) NO HEIRS.—If a decedent does not have an Indian heir of the first or second degree, an interest shall descend to any Indian collateral heir who is a co-owner of an interest owned by the decedent.

''(iii) MULTIPLE COLLATERAL HEIRS.—If—

''(I) an Indian collateral heir owns an interest to which clause (ii) applies that is larger than the interest held by any other such collateral heir, the interest shall descend to the collateral heir that owns the largest undivided interest in the parcel; or

''(II) 2 or more collateral heirs own equal shares in an interest to which clause (ii) applies, the interest shall be divided equally among those collateral heirs.

''(iv) NO OWNERSHIP.—If none of the Indian collateral heirs of a decedent owns an interest to which clause (ii) applies, subject to clause (v), the interest shall descend to the Indian tribe that exercises jurisdiction over the parcel of trust or restricted land involved.

''(v) ACQUISITION OF INTEREST.—

''(I) IN GENERAL.—Notwithstanding clause (iv), an Indian co-owner of a parcel of trust or restricted land may acquire an interest that would otherwise descend under that clause by paying into the estate of the decedent, before the close of the probate of the estate, the fair market value of the interest in or to the land.

''(II) MULTIPLE CO-OWNERS.—If more than 1 Indian co-owner (including the Indian tribe referred to in clause (iv)) offers to pay for an interest described in subclause (I), the highest bidder shall acquire the interest.

''(4) SPECIAL RULE RELATING TO SURVIVAL.—In the case of intestate succession under this section, if an individual who fails to survive a decedent by at least 120 hours, as established by clear and convincing evidence—

''(A) the individual shall be deemed to have predeceased the decedent for the purpose of intestate succession; and

''(B) the heirs of the decedent shall be determined in accordance with this section.

''(5) PRETERMITTED SPOUSES AND CHILDREN.—

''(A) SPOUSES.—

''(i) IN GENERAL.—Except as provided in clause (ii), if the surviving spouse of a testator married the testator after the testator executed the will of the testator, the surviving spouse shall receive the intestate share in trust or restricted land that the spouse would have received if the testator had died intestate.

''(ii) EXCEPTION.—Clause (i) shall not apply to an interest in trust or restricted land in a case in which—

''(I) the will of a testator is executed before the date of enactment of this subparagraph;

''(II)(aa) the spouse of a testator is a non-Indian; and

''(bb) the testator devised the interests in trust or restricted land of the testator to 1 or more Indians;

''(III) it appears, based on an examination of the will or other evidence, that the will was made in contemplation of the marriage of the testator to the surviving spouse;

''(IV) the will expresses the intention that the will is to be effective notwithstanding any subsequent marriage; or

''(V)(aa) the testator provided for the spouse by a transfer of funds or property outside the will; and

''(bb) an intent that the transfer be in lieu of a testamentary provision is demonstrated by statements of the testator or through a reasonable inference based on the amount of the transfer or other evidence.

''(B) CHILDREN.—

''(i) IN GENERAL.—If a testator executed the will of the testator before the birth or adoption of 1 or more children of the testator, and the omission of the children from the will is a product of inadvertence rather than an intentional omission, the children shall share in the intestate interests of the decedent in trust or restricted land as if the decedent had died intestate.

''(ii) ADOPTED HEIRS.—Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (25 U.S.C. 372a), shall be treated as the child of a decedent under this subsection.

''(6) DIVORCE.—

''(A) SURVIVING SPOUSE.—

''(i) IN GENERAL.—An individual who is divorced from a decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death of the decedent.

''(ii) SEPARATION.—A decree of separation that does not dissolve a marriage, and terminate the status of husband and wife, shall not be considered a divorce for the purpose of this subsection.

''(iii) NO EFFECT ON ADJUDICATIONS.—Nothing in clause (i) prevents an entity responsible for adjudicating an interest in trust or restricted land from giving effect to a property right settlement if 1 of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

''(B) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—

''(i) IN GENERAL.—If, after executing a will, a testator is divorced or the marriage of the testator is annulled, on the effective date of the divorce or annulment, any disposition of interests in trust or restricted land made by the will to the former spouse of the testator shall be considered to be revoked unless the will expressly provides otherwise.

''(ii) PROPERTY.—Property that is prevented from passing to a former spouse of a decedent under clause (i) shall pass as if the former spouse failed to survive the decedent.

''(iii) PROVISIONS OF WILLS.—Any provision of a will that is considered to be revoked solely by operation of this subparagraph shall be revived by the remarriage of a testator to the former spouse of the testator.

''(7) NOTICE.—

''(A) IN GENERAL.—To the maximum extent practicable, the Secretary shall notify each owner of trust and restricted land of the provisions of this Act.

''(B) COMBINED NOTICES.—The notice under subparagraph (A) may, at the discretion of the Secretary, be provided with the notice required under section 207(g).''.

(c) RULE OF CONSTRUCTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(h) APPLICABLE FEDERAL LAW.—

''(1) IN GENERAL.—For purpose of subsections (a) and (b), any reference to applicable Federal law includes—

''(A) Public Law 91–627 (84 Stat. 1874);

''(B) Public Law 92–377 (86 Stat. 530);

''(C) Public Law 92–443 (86 Stat. 744);

''(D) Public Law 96–274 (94 Stat. 537); and

''(E) Public Law 98–513 (98 Stat. 2411).

''(2) NO EFFECT ON LAWS.—Nothing in this section amends or otherwise affects any law described in paragraph (1), or any other Federal law, that provides for the devise and descent of any trust or restricted land located on a specific Indian reservation.''.

(d) PASSIVE TRUST INTEREST STATUS FOR TRUST OR RESTRICTED LAND.—The Indian Land Consolidation Act is amended by inserting after section 207 (25 U.S.C. 2206) the following:

''SEC. 207A. PASSIVE TRUST INTEREST STATUS FOR TRUST OR RESTRICTED LAND.

''(a) PASSIVE TRUST INTEREST STATUS.—

''(1) IN GENERAL.—The owner of an interest in trust or restricted land may submit to the Secretary an application requesting that the interest be held in passive trust interest status.

''(2) AUTHORITY.—An application under paragraph (1) may authorize the Secretary to amend any existing lease or agreement with respect to the interest that is the subject of the application.

''(b) APPROVAL.—On the approval of an application by the Secretary under subsection (a), an interest in trust or restricted land covered by the application shall be held as a passive trust interest in accordance with this section.

''(c) REQUIREMENTS.—Except as provided in this section, an interest in trust or restricted land that is held as a passive trust interest under this section—

''(1) shall continue to be covered under any applicable tax-exempt status, and continue to be subject to any restrictions on alienation, until the interest is patented in fee;

''(2) may, without the approval of the Secretary, be—

''(A) leased for a period of not to exceed 25 years;

''(B) mortgaged in accordance with the Act of March 29, 1956 (25 U.S.C. 483a); or

''(C) sold or conveyed to—

''(i) an Indian;

''(ii) the Indian tribe that exercises jurisdiction over the interest; or

''(iii) a co-owner of an interest in the parcel of land in which the interest is held, if the co-owner owns a pre-existing trust, restricted interest, or a passive trust interest in the parcel; and

''(3) may be subject to an ordinance or resolution enacted under subsection (d).

''(d) ORDINANCE OR RESOLUTION FOR REMOVAL OF STATUS.—

''(1) IN GENERAL.—The governing body of the Indian tribe that exercises jurisdiction over an interest in trust or restricted land that is held as a passive trust interest in accordance with this section may enact an ordinance or resolution to permit the owner of the interest to apply to the Secretary for the removal of the trust or restricted status of any portion of the land that is subject to the jurisdiction of the Indian tribe.

''(2) REVIEW BY SECRETARY.—The Secretary shall review, and may approve, an ordinance or resolution enacted by an Indian tribe in accordance with paragraph (1) if the Secretary determines that the ordinance or resolution—

''(A) is consistent with this Act; and

''(B) would not increase fractionated ownership of Indian land.

''(e) REVENUES OR ROYALTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall not be responsible for the collection of or accounting for any lease revenues or royalties accruing to an interest held as a passive trust interest by any person under this section.

''(2) EXCEPTION.—Paragraph (1) shall not apply to an interest described in that paragraph if the Secretary approves an application to take the interest into active trust status on behalf of an Indian or an Indian tribe in accordance with regulations promulgated by the Secretary.

''(3) AUTHORITY OF SECRETARY.—Nothing in this subsection alters any authority or responsibility of the Secretary with respect to an interest in trust or restricted land held in active trust status (including an undivided interest included in the same parcel of land as an undivided passive trust interest).

''(f) JURISDICTION OVER PASSIVE TRUST INTEREST.—With respect to an interest in trust or restricted land that is devised or held as a passive trust interest under this section—

''(1) an Indian tribe that exercises jurisdiction over such an interest shall continue to exercise jurisdiction over the land that is held as a passive trust interest; and

''(2) any person holding, leasing, or otherwise using the land shall be considered to consent to the jurisdiction of the Indian tribe with respect to the use of the land (including any effects associated with any use of the land).

''(g) PROBATE OF PASSIVE TRUST INTERESTS.—

''(1) IN GENERAL.—An interest in trust or restricted land that is held as a passive trust interest under this section shall be subject to—

''(A) probate by the Secretary in accordance with this Act; and

''(B) all other laws applicable to the probate of trust or restricted land.

''(2) COMMENCEMENT OF PROBATE.—Any interested party may file an application to commence the probate of an interest in trust or restricted land held as a passive trust interest.

''(h) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.''.

SEC. 4. PARTITION OF INDIAN LAND.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended by adding at the end the following:

''(c) PARTITION.—

''(1) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE INDIAN TRIBE.—The term 'eligible Indian tribe' means an Indian tribe that—

''(i) owns eligible land; and

''(ii) consents to partition of the eligible land.

''(B) ELIGIBLE LAND.—The term 'eligible land' means an undivided parcel of land that—

''(i) is located within the reservation of an Indian tribe; or

''(ii) is otherwise under the jurisdiction of an Indian tribe.

''(2) REQUIREMENTS.—Notwithstanding any other provision of law, in accordance with this subsection and subject to paragraphs (3), (4), and (5)—

''(A) an eligible Indian tribe may apply to the Secretary for the partition of a parcel of eligible land; and

''(B) the Secretary may commence a process for partitioning the eligible land under this subsection if—

''(i) the eligible Indian tribe meets the applicable ownership requirement under subparagraph (A) or (B) of paragraph (3); or

''(ii) the Secretary determines that it is reasonable to believe that the partition of the eligible land owned would be in accordance with paragraph (3)(C).

''(3) TRIBAL OWNERSHIP.—A parcel of eligible land may be partitioned under this subsection if, with respect to the eligible Indian tribe involved—

''(A) the eligible Indian tribe owns 50 percent or more of the undivided interest in the parcel;

''(B) the eligible Indian tribe is the owner of the largest quantity of undivided interest in the parcel; or

''(C) the owners of undivided interests equal to at least 50 percent of the undivided interest in the parcel (including any undivided interest owned by the eligible Indian tribe) consent or do not object to the partition.

''(4) TRIBAL CONSENT.—A parcel of land that is located within the reservation of an Indian tribe or otherwise under the jurisdiction of an Indian tribe shall be partitioned under this subsection only if the Indian tribe does not object to the partition.

''(5) APPLICABILITY.—This subsection shall not apply to any parcel of land that is the bona fide residence of any person unless the person consents to the partition in writing.

''(6) PARTITION IN KIND.—

''(A) IN GENERAL.—The Secretary shall commence the partition process described in subparagraph (B) if—

''(i) an eligible Indian tribe applies to partition eligible land under this paragraph; and

''(ii)(I) the Secretary determines that the eligible Indian tribe meets the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (3)(C).

''(B) PARTITION PROCESS.—In carrying out any partition under this paragraph, the Secretary shall—

''(i) provide, to each owner of any undivided interest in eligible land to be partitioned, through publication or other appropriate means, notice of the proposed partition;

''(ii) make available to any interested party a copy of any proposed partition plan submitted by an eligible Indian tribe or proposed by the Secretary; and

''(iii) review—

''(I) any proposed partition plan submitted by any owner of an undivided interest in the eligible land; and

''(II) any comments or objections concerning a partition, or any proposed plan of partition, submitted by any owner or any other interested party.

''(C) DETERMINATION NOT TO PARTITION.—If the Secretary determines that a parcel of eligible land cannot be partitioned in a manner that is fair and equitable to the owners of the eligible land, the Secretary shall inform each owner of the eligible land of—

''(i) the determination of the Secretary; and

''(ii) the right of the owner to appeal the determination.

''(D) PARTITION WITH CONSENT OF ELIGIBLE INDIAN TRIBE.—If the Secretary determines that a parcel of eligible land may be partitioned in a manner that is fair and equitable to the owners of the eligible land, and the applicable eligible Indian tribe meets the applicable ownership requirements under subparagraph (A) or (B) of paragraph (3), the Secretary shall—

''(i) approve a plan of partition;

''(ii) provide notice to the owners of the eligible land of the determination of the Secretary;

''(iii) make a copy of the plan of partition available to each owner of the eligible land; and

''(iv) inform each owner of the right to appeal the determination of the Secretary to partition the eligible land in accordance with the plan.

''(E) PARTITION WITH CONSENT; IMPLIED CONSENT.—If the Secretary determines that a parcel of eligible land may be partitioned in a manner that is fair and equitable to the owners of the eligible land, but the eligible Indian tribe involved does not meet the applicable ownership requirements under subparagraph (A) or (B) of paragraph (3), the Secretary shall—

''(i)(I) make a plan of partition available to the owners of the parcel; and

''(II) inform the owners that the eligible land will be partitioned in accordance with the plan if the owners of 50 percent or more of undivided ownership interest in the eligible land—

''(aa) consent to the partition; or

''(bb) do not object to the partition by such date as may be established by the Secretary; and

''(ii)(I) if the owners of 50 percent or more of undivided ownership interest in the eligible land consent to the partition or do not object by a date established by the Secretary under clause (i)(II)(bb), inform the owners of the eligible land that—

''(aa) the plan for partition is final; and

''(bb) the owners have the right to appeal the determination of the Secretary to partition the eligible land; or

''(II) if the owners of 50 percent or more of the undivided ownership interest in the eligible land object to the partition, inform the eligible Indian tribe of the objection.

''(F) SUCCESSIVE PARTITION PLANS.—In carrying out subparagraph (E) in accordance with paragraph (3)(C), the Secretary may, in accordance with subparagraph (E)—

''(i) approve 1 or more successive plans of partition; and

''(ii) make those plans available to the owners of the eligible land to be partitioned.

''(G) PLAN OF PARTITION.—A plan of partition approved by the Secretary in accordance with subparagraph (D) or (E)—

''(i) may determine that 1 or more of the undivided interests in a parcel of eligible land are not susceptible to a partition in kind;

''(ii) may provide for the sale or exchange of those undivided interests to—

''(I) 1 or more of the owners of undivided interests in the eligible land; or

''(II) the Secretary in accordance with section 213; and

''(iii) shall provide that the sale of any undivided interest referred to in clause (ii) shall be for not less than the fair market value of the interest.

''(7) PARTITION BY SALE.—

''(A) IN GENERAL.—The Secretary shall commence the partition process described in subparagraph (B) if—

''(i) an eligible Indian tribe applies to partition a parcel of eligible land under this subsection; and

''(ii)(I) the Secretary determines that the Indian tribe meets the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (3)(C).

''(B) PARTITION PROCESS.—In carrying out any partition of eligible land under this paragraph, the Secretary—

''(i) shall conduct a preliminary appraisal of the eligible land;

''(ii) shall provide to the owners of the eligible land, through publication or other appropriate means—

''(I) notice of the application of the eligible Indian tribe to partition the eligible land; and

''(II) access to the preliminary appraisal conducted in accordance with clause (i);

''(iii) shall inform each owner of the eligible land of the right to submit to the Secretary comments relating to the preliminary appraisal;

''(iv) may, based on comments received under clause (iii), modify the preliminary appraisal or provide for the conduct of a new appraisal; and

''(v) shall—

''(I) issue a final appraisal for the eligible land;

''(II) provide to the owners of the eligible land and the appropriate Indian tribes access to the final appraisal; and

''(III) inform the Indian tribes of the right to appeal the final appraisal.

''(C) PURCHASE BY ELIGIBLE INDIAN TRIBE.—If an eligible Indian tribe enters into an agreement with the Secretary to pay fair market value for eligible land partitioned under this subsection, as determined by the final appraisal of the eligible land issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), and the eligible Indian tribe meets the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3), the Secretary shall—

''(i) provide to each owner of the eligible land notice of the agreement; and

''(ii) inform the owners of the right to appeal the decision of the Secretary to enter into the agreement (including the right to appeal any final appraisal of the parcel referred to in subparagraph (B)(v)(III)).

''(D) PARTITION WITH CONSENT; IMPLIED CONSENT.—

''(i) IN GENERAL.—If an eligible Indian tribe agrees to pay fair market value for eligible land partitioned under this subsection, as determined by the final appraisal of the eligible land issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), but does not meet the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3), the Secretary shall—

''(I) provide to each owner of the undivided interest in the eligible land notice that the Indian tribe did not meet the requirements; and

''(II) inform the owners that the eligible land will be partitioned by sale unless the partition is opposed by the owners of 50 percent or more of the undivided ownership interest in the eligible land.

''(ii) FAILURE TO OBJECT TO PARTITION.—If the owners of 50 percent or more of undivided ownership interest in or to a parcel of eligible land consent to the partition of the eligible land, or do not object to the partition by such date as may be established by the Secretary, the Secretary shall inform the owners of the eligible land of the right to appeal the determination of the Secretary to partition the eligible land (including the results of the final appraisal issued under subparagraph (B)(v)(I)).

''(iii) OBJECTION TO PARTITION.—If the owners of 50 percent or more of the undivided ownership interest in a parcel of eligible land object to the partition of the eligible land—

''(I) the Secretary shall notify the eligible Indian tribe of the objection; and

''(II) the eligible Indian tribe and the Secretary may agree to increase the amount offered to purchase the undivided ownership interests in the eligible land.

''(8) ENFORCEMENT.—

''(A) IN GENERAL.—If, with respect to a parcel of eligible land, a partition in kind is approved under subparagraph (D) or (E) of paragraph (6), or a partition by sale is approved under paragraph (7)(C), and the owner of an interest in or to the eligible land fails to convey the interest to the Indian tribe, the Indian tribe or the United States may—

''(i) bring a civil action in the United States district court for the district in which the eligible land is located; and

''(ii) request the court to issue an appropriate order for the partition in kind, or partition by sale to the Indian tribe, of the eligible land.

''(B) FEDERAL ROLE.—With respect to any civil action brought under subparagraph (A)—

''(i) the United States—

''(I) shall receive notice of the civil action; and

''(II) may be a party to the civil action; and

''(ii) the civil action shall not be dismissed, and no relief requested shall be denied, on the ground that the civil action is against the United States or that the United States is an indispensable party.''.

SEC. 5. ADDITIONAL AMENDMENTS.

(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in the second sentence of section 205(a) (25 U.S.C. 2204(a)), by striking ''over 50 per centum of the undivided interests'' and inserting ''undivided interests equal to at least 50 percent of the undivided interest'';

(2) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) TRIBAL PROBATE CODES.—Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prevents the devise of an interest in trust or restricted land to—

''(A) an Indian lineal descendant of the original allottee; or

''(B) an Indian who is not a member of the Indian tribe that exercises jurisdiction over such an interest, unless the code provides for—

''(i) the renouncing of interests to eligible devisees in accordance with the code;

''(ii) the opportunity for a devisee who is the spouse or lineal descendant of a testator to reserve a life estate; and

''(iii) payment of fair market value in the manner prescribed under subsection (c)(2).''; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking the paragraph heading and inserting the following:

''(1) AUTHORITY.—

''(A) IN GENERAL.—'';

(II) in the first sentence of subparagraph (A) (as designated by clause (i)), by striking ''section 207(a)(6)(A) of this title'' and inserting ''section 207(a)(2)(A)(ii), 207(a)(2)(C), or 207(a)(3)''; and

(III) by striking the last sentence and inserting the following:

''(B) TRANSFER.—The Secretary shall transfer payments received under subparagraph (A) to any person or persons who would have received an interest in land if the interest had not been acquired by the Indian tribe in accordance with this paragraph.''; and

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) by striking the subparagraph heading and all that follows through ''Paragraph (1) shall apply'' and inserting the following:

''(A) NONAPPLICABILITY TO CERTAIN INTERESTS.—

''(i) IN GENERAL.—Paragraph (1) shall not apply'';

(bb) in clause (i) (as designated by item (a)), by striking ''if, while'' and inserting the following: ''if—

''(I) while'';

(cc) by striking the period at the end and inserting ''; or''; and

(dd) by adding at the end the following:

''(II)(aa) the interest is part of a family farm that is devised to a member of the family of the decedent; and

''(bb) the devisee agrees that the Indian tribe that exercises jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

''(ii) RECORDING OF INTEREST.—On request by an Indian tribe described in clause (i)(II)(bb), a restriction relating to the acquisition by the Indian tribe of an interest in a family farm involved shall be recorded as part of the deed relating to the interest involved.

''(iii) MORTGAGE AND FORECLOSURE.—Nothing in clause (i)(II) prevents or limits the ability of an owner of land to which that clause applies to mortgage the land or limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement in accordance with applicable law.

''(iv) DEFINITION OF MEMBER OF THE FAMILY.—In this paragraph, the term 'member of the family', with respect to a decedent or landowner, means—

''(I) a lineal descendant of a decedent or landowner;

''(II) a lineal descendant of the grandparent of a decedent or landowner;

''(III) the spouse of a descendant or landowner described in subclause (I) or (II); and

''(IV) the spouse of a decedent or landowner.''; and

(II) in subparagraph (B), by striking ''subparagraph (A)'' and all that follows through ''207(a)(6)(B) of this title'' and inserting ''paragraph (1)'';

(3) in section 207 (25 U.S.C. 2206)—

(A) in subsection (c)—

(i) by redesignating paragraph (3) as paragraph (4); and

(ii) by inserting after paragraph (2) the following:

''(3) ALIENATION OF JOINT TENANCY INTERESTS.—

''(A) IN GENERAL.—With respect to any interest held in joint tenancy in accordance with this subsection—

''(i) nothing in this subsection alters the ability of an owner of such an interest to convey a life estate in the undivided joint tenancy interest of the owner; and

''(ii) only the last remaining owner of such an interest may devise or convey more than a life estate in the interest.

''(B) APPLICATION OF PROVISION.—This paragraph shall not apply—

''(i) to any conveyance, sale, or transfer that is part of an agreement referred to in subsection (e); or

''(ii) to a co-owner of a joint tenancy interest.''; and

(B) in subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)'';

(4) in section 213 (25 U.S.C. 2212)—

(A) in subsection (a)(2), by striking ''(A) IN GENERAL.—'' and all that follows through ''the Secretary shall submit'' and inserting ''The Secretary shall submit'';

(B) in subsection (b), by striking paragraph (4) and inserting the following:

''(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under the pilot program under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

''(A) conveyance documents;

''(B) administrative proceedings; and

''(C) transactions.''; and

(C) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking ''landowner upon payment'' and all that follows and inserting the following: ''landowner—

''(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

''(ii) if—

''(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

''(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner.''; and

(II) in subparagraph (B), by inserting before the period at the end the following: ''unless the interest is subject to a foreclosure of a mortgage in accordance with the Act of March 29, 1956 (25 U.S.C. 483a)''; and

(ii) in paragraph (3), by striking ''10 percent of more of the undivided interests'' and inserting ''an undivided interest'';

(5) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

''(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) until the Secretary provides for the removal of the lien under paragraph (3) or (4).

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Until the Secretary removes a lien from an interest in land under paragraph (1)—

''(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

''(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 213 shall be deposited in the fund created under section 216.

''(B) APPROVAL OF TRANSACTIONS.—Notwithstanding section 16 of the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act') (25 U.S.C. 476), or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

''(3) REMOVAL OF LIEN AFTER FINDINGS.—The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

''(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

''(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

''(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

''(4) OTHER REMOVAL OF LIEN.—In accordance with regulations to be promulgated by the Secretary, and in consultation with tribal governments and other entities described in section 213(b)(3), the Secretary shall periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.'';

(6) in section 216 (25 U.S.C. 2215)—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

''(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213.''; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''Subject to paragraph (2), all'' and inserting ''All'';

(II) in subparagraph (A), by striking ''and'' at the end;

(III) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(IV) by adding at the end the following:

''(C) be used to acquire undivided interests on the reservation from which the income was derived.''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) USE OF FUNDS.—The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 205.'';

(7) in section 217 (25 U.S.C. 2216)—

(A) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,''; and

(B) by striking subsection (f) and inserting the following:

''(f) PURCHASE OF LAND BY INDIAN TRIBE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of trust or restricted land, the Indian tribe that exercises jurisdiction over the parcel shall have the opportunity—

''(A) to match any offer contained in the application; or

''(B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

''(2) EXCEPTION FOR FAMILY FARMS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to a parcel of trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 206(c)(2)(A)(iv)) if—

''(i) the interest is offered for sale to an entity that is not a member of the family of the landowner; and

''(ii) the Indian tribe that exercises jurisdiction over the land is afforded the opportunity to purchase the interest.

''(B) APPLICABILITY.—Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of any trust or restricted land referred to in subparagraph (A).''; and

(8) in section 219(b)(1)(A) (25 U.S.C. 2218(b)(1)(A)), by striking ''100'' and inserting ''90''.

(b) DEFINITION.—

(1) IN GENERAL.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended by striking paragraph (2) and inserting the following:

''(2) INDIAN.—

''(A) IN GENERAL.—The term 'Indian' means—

''(i) any person that is a member of any Indian tribe or is eligible to become a member of any Indian tribe;

''(ii) subject to subparagraph (B), any person that has been found to meet the definition of 'Indian' under any Federal law; and

''(iii) with respect to the ownership, devise, or descent of trust or restricted land in the State of California, any person that meets the definition of 'Indians of California' contained in the first section of the Act of May 18, 1928 (25 U.S.C. 651), until otherwise provided by Congress in accordance with section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679(b));''.

''(B) EXCLUSIONS.—The term 'Indian' does not include any person excluded from a definition described in subparagraph (A)(ii) by a regulation promulgated by the Secretary in a case in which the Secretary determines that the definition is not consistent with the purposes of this Act, unless the definition described in subparagraph (A)(ii) is contained in a law relating to—

''(i) agriculture;

''(ii) cultural resources;

''(iii) economic development;

''(iv) grazing;

''(v) housing;

''(vi) Indian schools;

''(vii) natural resources;

''(viii) any other program with benefits intended to run to Indian landowners; or

''(ix) any land-related program that takes effect after the date of enactment of this subparagraph.''.

(2) APPLICABILITY.—Any exclusion referred to in the amendment made by paragraph (1) shall apply only to a decedent who dies after the date on which the Secretary of the Interior promulgates a regulation providing for the exclusion.

(c) MORTGAGES AND DEEDS OF TRUST.—The Act of March 29, 1956 (25 U.S.C. 483a), is amended in the first sentence of subsection (a) by inserting after ''any land'' the following: ''(including land owned by any person in passive trust status in accordance with section 207A of the Indian Land Consolidation Act)''.

(d) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348), is amended by striking the second proviso and inserting the following: ''*Provided,* That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply to that land for which patents have been executed and delivered:''.

(e) TRANSFERS OF RESTRICTED INDIAN LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by striking '', in accordance with'' and all that follows through the colon and inserting ''in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):''.

SEC. 6. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

(a) IN GENERAL.—Section 5 of Public Law 98–513 (98 Stat. 2413) is amended to read as follows:

''SEC. 5. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act—

''(1) the owner of an interest in trust or restricted land within the reservation may not devise an interest (including a life estate under section 4) in the land that is less than 2.5 acres to more than 1 tribal member unless each tribal member already holds an interest in that land; and

''(2) any interest in trust or restricted land within the reservation that is less than 2.5 acres that would otherwise pass by intestate succession (including a life estate in the land under section 4), or that is devised to more than 1 tribal member that is not described in paragraph (1), shall revert to the Indian tribe, to be held in the name of the United States in trust for the Indian tribe.

''(b) NOTICE.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Indian Probate Reform Act of 2003, the Secretary shall provide notice to owners of trust or restricted land within the Lake Traverse Reservation of the provisions of this section by—

''(A) direct mail;

''(B) publication in the Federal Register; or

''(C) publication in local newspapers.

''(2) CERTIFICATION.—After providing notice under paragraph (1), the Secretary shall—

''(A) certify that the requirements of this subsection have been met; and

''(B) shall publish notice of that certification in the Federal Register.''.

(b) APPLICABILITY.—This section and the amendment made by this section shall not apply with respect to the estate of any person who dies before the date that is 1 year after the date on which the Secretary makes the required certification under section 5(b) of Public Law 98–513 (98 Stat. 2413) (as amended by subsection (a)).

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall not apply to the estate of an individual who dies before the later of—

(1) the date that is 1 year after the date of enactment of this Act; or

(2) the date specified in section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)(5)).

By Mr. CAMPBELL:

S. 551. A bill to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes; to the Committee on Environment and Public Works.

Mr. CAMPBELL. Mr. President, today I am re-introducing a bill that is important to the State of Colorado, the Southern Ute Indian Tribe and all Coloradans that live in the southwest corner of our beautiful State.

More than thirty years of experience with environmental laws shows us that local design and implementation of such laws almost always trumps the ''one size fits all'' approach advocated by many in Washington, D.C.

The Federal Clean Air Act authorizes States and Indian tribes to accept responsibility for air quality plans and standards, and implement many of the regulatory programs needed to maintain or improve air quality.

In 1984 Congress ratified a jurisdiction and boundary agreement between the Tribe and the State that spared both sides litigation costs and a fight over the jurisdictional status of each square inch on the reservation. The 1984 pact permits the Tribe and the State to work out jurisdictional issues for themselves.

Some uncertainty remains with respect to environmental issues and rather than placing the Environmental Protection Agency in the middle of a controversy about whether it is authorized to delegate Clean Air Act programs within the Ute Reservation, the Tribe and the State signed an agreement to eliminate any ambiguities.

First, consistent with Congress' mandate in the Clean Air Act, the Tribe will be the entity responsible for administering Clean Air Act programs within the reservation.

Second, an equal number of Tribal and State representatives will sit on the Commission established to hear and make decisions, and will set the pace for Tribal applications for delegations of authority. Finally, Federal court review is available to hear challenges to decisions by the Commission.

In closing, let me again commend the efforts of both the Tribe and the State in negotiating and signing this historic agreement.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the ''Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress, after review and in recognition of the purposes and uniqueness of the Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado, finds that—

(1) the Intergovernmental Agreement is consistent with the special legal relationship between Federal Government and the Tribe; and

(2) air quality programs developed in accordance with the Intergovernmental Agreement and submitted by the Tribe for approval by the Administrator may be implemented in a manner that is consistent with the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) PURPOSE.—The purpose of this Act is to provide for the implementation and enforcement of air quality control programs under the Clean Air Act (42 U.S.C. 7401 et seq.) and other air quality programs developed in accordance with the Intergovernmental Agreement that provide for—

(1) the regulation of air quality within the exterior boundaries of the Reservation; and

(2) the establishment of a Southern Ute Indian Tribe/State of Colorado Environmental Commission.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COMMISSION.—The term ''Commission'' means the Southern Ute Indian Tribe/State of Colorado Environmental Commission established by the State and the Tribe in accordance with the Intergovernmental Agreement.

(3) INTERGOVERNMENTAL AGREEMENT.—The term ''Intergovernmental Agreement'' means the agreement entered into by the Tribe and the State on December 13, 1999.

(4) RESERVATION.—The term ''Reservation'' means the Southern Ute Indian Reservation.

(5) STATE.—The term ''State'' means the State of Colorado.

(6) TRIBE.—The term ''Tribe'' means the Southern Ute Indian Tribe.

SEC. 4. TRIBAL AUTHORITY.

(a) AIR PROGRAM APPLICATIONS.—

(1) IN GENERAL.—The Administrator is authorized to treat the Tribe as a State for the purpose of any air program applications submitted to the Administrator by the Tribe under section 301(d) of the Clean Air Act (42 U.S.C. 7601(d)) to carry out, in a manner consistent with the Clean Air Act (42 U.S.C. 7401 et seq.), the Intergovernmental Agreement.

(2) APPLICABILITY.—If the Administrator approves an air program application of the Tribe, the approved program shall be applicable to all air resources within the exterior boundaries of the Reservation.

(b) TERMINATION.—If the Tribe or the State terminates the Intergovernmental Agreement, the Administrator shall promptly take appropriate administrative action to withdraw treatment of the Tribe as a State for the purpose described in subsection (a)(1).

SEC. 5. CIVIL ENFORCEMENT.

If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with a program under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States District Court for the District of Colorado.

SEC. 6. JUDICIAL REVIEW.

Any decision by the Commission that would be subject to appellate review if it were made by the Administrator—

(1) shall be subject to appellate review by the United States Court of Appeals for the Tenth Circuit; and

(2) may be reviewed by the Court of Appeals applying the same standard that would be applicable to a decision of the Administrator.

SEC. 7. DISCLAIMER.

Nothing in this Act—

(1) modifies any provision of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) Public Law 98–290 (25 U.S.C. 668 note); or

(C) any lawful administrative rule promulgated in accordance with those statutes; or

(2) affects or influences in any manner any past or prospective judicial interpretation or application of those statutes by the United States, the Tribe, the State, or any Federal, tribal, or State court.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. DEWINE, Mr. ALLEN, Mr. CRAIG, Mr. GRAHAM of South Carolina, Mr. ALLARD, and Mr. TALENT):

S. 554. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce the Sunshine in the Courtroom Act of 2003, a bill to allow media coverage of court proceedings. This legislation will provide Federal judges with the statutory authority to exercise their discretion to allow the photographing, electronic recording, broadcasting and televising of federal court proceedings.

During the 107th Congress, the Judiciary Committee reported identical legislation favorably, by a vote of 12 to 7. It's my hope that the full Senate will have the opportunity to act on this bill as early as possible in the 108th Congress.

Sunshine bill will help the American people to become better informed about the judicial process. Moreover, this bill will help to produce a better judiciary. Increased public awareness and scrutiny will bring about greater accountability and help judges to do a better job.

Allowing cameras in the Federal courts is consistent with the intent of our Nation's Founders that trials should be held in front of as many people as choose to attend them. In my view, the First Amendment to the Constitution requires that court proceedings must be open to the public and, by extension, to the news media. As the Supreme Court has said, ''what transpires in the courtroom is public property.''

Clearly, the basic American values of openness and education are served by allowing electronic media access to Federal courtrooms. There are many beneficial and no substantial detrimental effects to allowing greater public access to the inner workings of our federal courts. Fifteen States have conducted studies aimed specifically at the educational benefits that are derived from camera access to courtrooms. They all determined that camera coverage contributes to greater public understanding of the judicial system.

Moroever, the experience of the States with electronic media access to judicial proceedings demonstrate that still and video cameras can be used without any problems, and that procedural discipline is preserved. According to the National Center for State Courts, all fifty States allow at least some degree of camera access to judicial proceedings under a wide variety of rules and conditions. My own State of Iowa, for example, has operated successfully in this open manner for more than 20 years.

Furthermore, at the Federal level, the Federal Judicial Center conducted a pilot program in 1994 that studied the effects of allowing camera access to courtrooms. The study found ''small or no effects of camera presence on participants in judicial proceedings, courtroom decorum, or the administration of justice.''

Based on the experience of the States, as well as state and Federal studies, Senator SCHUMER and I are introducing this bill with a well-founded confidence that it represents sound public policy. Nevertheless, in order to provide a mechanism for Congress to study the effects of this legislation on our judiciary before making this change permanent, we have included a three-year sunset provision in our bill.

The Supreme Court of the United States has recognized that there is a strong public interest in electronic media access to important court cases. At my urging and that of Senator SCHUMER, Chief Justice Rehnquist permitted the delayed audio broadcasting of the oral arguments before the Supreme Court in the historic 2000 presidential election dispute. The Supreme Court's response to our request was a major step in the right direction.

It is important to emphasize, that this bill does not require any Federal judge in any Federal court to allow camera access to judicial proceedings. Rather, it simply gives Federal judges the discretion to allow cameras or other electronic media access if they see fit. The bill also protects the privacy and safety of non-party witnesses by giving them the right to have their faces and voices obscured.

This piece of sunshine legislation will bring greater openness and accountability to the Nation's Federal courts. The best way to maintain confidence in our Federal judiciary, which has tremendous power, is to let the sun shine in by allowing judges to exercise their discretion in opening Federal courtrooms to public view through the broadcasting and televising of judicial proceedings. I urge my colleagues to join me in co-sponsoring the Sunshine in the Courtroom Act.

I ask unanimous consent that the text of bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) PRESIDING JUDGE.—The term ''presiding judge'' means the judge presiding over the court proceeding concerned. In proceedings in which more than 1 judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term ''appellate court of the United States'' means any United States circuit court of appeals and the Supreme Court of the United States.

SEC. 2. AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.

(a) AUTHORITY OF APPELLATE COURTS.—Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(b) AUTHORITY OF DISTRICT COURTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(2) OBSCURING OF WITNESSES.—

(A) IN GENERAL.—Upon the request of any witness in a trial proceeding other than a party, the court shall order the face and

voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding.

(B) NOTIFICATION TO WITNESSES.—The presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request that the image and voice of that witness be obscured during the witness' testimony.

(c) ADVISORY GUIDELINES.—The Judicial Conference of the United States may promulgate advisory guidelines to which a presiding judge, in the discretion of that judge, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described under subsections (a) and (b).

SEC. 3. SUNSET.

The authority under section 2(b) shall terminate 3 years after the date of the enactment of this Act.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 555. A bill to establish the Native American Health and Wellness Foundation, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN):

S. 556. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President today I am pleased to be joined by Senators INOUYE and MCCAIN in introducing two bills vitally important to the health of Native Americans: the ''Indian Health Care Improvement Act Reauthorization of 2003''.

It is an unfortunate fact that the health status of Native people in the United States is poor. In fact, in the western hemisphere only the people of Haiti are in worse shape.

Alcohol, drug abuse, and mental illness, tuberculosis, cancer, obesity and diabetes, heart disease, infant mortality, and a host of related pathologies plague Native people.

Last fall's reauthorization of the Special Indian Diabetes Program showed the Federal commitment to ending the scourge of diabetes in Native communities.

The ''Indian Health Care Improvement Act Reauthorization of 2003'' will reauthorize the programs administered by the Indian Health Service and will increase the direct management of health care services by tribes, Native Alaskans and Urban Indian health centers.

This bill is the product of intense consultation between tribes, Native Alaskan health providers, and Urban Indian health centers, and relevant Federal agencies and representatives of the public and private health care sectors.

The efforts of the IHS and Native health providers have been successful in improving the health status of Native people. Just in the last 10 years, infant and maternal mortality rates have declined by 30 percent and 40 percent, respectively. Similarly, tuberculosis mortality rates have also been reduced 53 percent. Other indicia of Native health status have also shown marked improvement.

Even with modest increases in recent spending bills, funding for Native health care continues to lag far behind the level of need.

To help close this gap, we must be creative and tap other sources of funds for Native health including the private, tribal and non-profit sectors of our economy.

The second bill I am introducing will do just that and will facilitate the contribution of funds for purposes of Native health care by establishing a nonprofit, charitable foundation to receive funds and in-kind contributions for such purposes.

This is not a radical step as similar foundations have been established for other purposes. In recent years Congress has created both the American Indian Education Foundation and the Fish and Wildlife Foundation, which have proven to be very successful in achieving their purposes.

I urge my colleagues to join me in supporting these important bills.

I ask unanimous consent that copies of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native American Health and Wellness Foundation Act of 2003''.

SEC. 2. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

(a) IN GENERAL.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

''TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION

''SEC. 801. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the Board of Directors of the Foundation.

''(2) FOUNDATION.—The term 'Foundation' means the Native American Health and Wellness Foundation established under section 802.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(4) SERVICE.—The term 'Service' means the Indian Health Service of the Department of Health and Human Services.

''SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

''(a) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.

''(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.

''(c) NATURE OF CORPORATION.—The Foundation—

''(1) shall be a charitable and nonprofit federally chartered corporation; and

''(2) shall not be an agency or instrumentality of the United States.

''(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

''(e) PURPOSES.—The purposes of the Foundation shall be—

''(1) to encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Service;

''(2) to undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and

''(3) to participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.

''(f) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

''(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

''(3) SELECTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

''(B) REQUIREMENTS.—

''(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, 2 of whom shall be the Secretary and the Director of the Indian Health Service, who shall serve as nonvoting members.

''(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

''(I) shall be appointed by the Secretary not later than 180 days after the date on which the Foundation is established; and

''(II) shall have staggered terms (as determined by the Secretary).

''(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

''(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

''(g) OFFICERS.—

''(1) IN GENERAL.—The officers of the Foundation shall be—

''(A) a secretary, elected from among the members of the Board; and

''(B) any other officers provided for in the constitution and bylaws of the Foundation.

''(2) SECRETARY.—The secretary of the Foundation shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

''(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

''(h) POWERS.—The Foundation—

''(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

''(2) may adopt and alter a corporate seal;

''(3) may enter into contracts;

''(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

''(5) may sue and be sued; and

''(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

''(i) PRINCIPAL OFFICE.—

''(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

''(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

''(j) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

''(k) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

''(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

''(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

''(l) RESTRICTIONS.—

''(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed 10 percent of the sum of—

''(A) the amounts transferred to the Foundation under subsection (m) during the preceding fiscal year; and

''(B) donations received from private sources during the preceding fiscal year.

''(2) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

''(3) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

''(m) TRANSFER OF DONATED FUNDS.—The Secretary may transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.) if the transfer or use of the funds is not prohibited by any term under which the funds were donated.

''(n) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

''SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.

''(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

''(1) may provide personnel, facilities, and other administrative support services to the Foundation;

''(2) may provide funds to reimburse the travel expenses of the members of the Board; and

''(3) shall require and accept reimbursements from the Foundation for—

''(A) services provided under paragraph (1); and

''(B) funds provided under paragraph (2).

''(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—

''(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

''(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

''(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services—

''(1) are available; and

''(2) are provided on reimbursable cost basis.''.

(b) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (as added by section 1302 of the American Indian Education Foundation Act of 2000) (25 U.S.C. 458bbb et seq.)) as title VII;

(2) by redesignating sections 501, 502, and 503 (as added by section 1302 of the American Indian Education Foundation Act of 2000) as sections 701, 702, and 703, respectively; and

(3) in subsection (a)(2) of section 702 and paragraph (2) of section 703 (as redesignated by paragraph (2)), by striking ''section 501'' and inserting ''section 701''.

S. 556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Indian Health Care Improvement Act Reauthorization of 2003''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

TITLE I—REAUTHORIZATION AND REVISIONS OF THE INDIAN HEALTH CARE IMPROVEMENT ACT

Sec. 101. Amendment to the Indian Health Care Improvement Act.

TITLE II—CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Subtitle A—Medicare

Sec. 201. Limitations on charges.
Sec. 202. Qualified Indian health program.

Subtitle B—Medicaid

Sec. 211. State consultation with Indian health programs.
Sec. 212. Fmap for services provided by Indian health programs.
Sec. 213. Indian Health Service programs.

Subtitle C—State Children's Health Insurance Program

Sec. 221. Enhanced fmap for State children's health insurance program.
Sec. 222. Direct funding of State children's health insurance program.

Subtitle D—Authorization of Appropriations

Sec. 231. Authorization of appropriations.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Repeals.
Sec. 302. Severability provisions.
Sec. 303. Effective date.

TITLE I—REAUTHORIZATION AND REVISIONS OF THE INDIAN HEALTH CARE IMPROVEMENT ACT

SEC. 101. AMENDMENT TO THE INDIAN HEALTH CARE IMPROVEMENT ACT.

The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Indian Health Care Improvement Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''Sec. 1. Short title; table of contents.
''Sec. 2. Findings.
''Sec. 3. Declaration of health objectives.
''Sec. 4. Definitions.

''TITLE I—INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT

''Sec. 101. Purpose.
''Sec. 102. General requirements.
''Sec. 103. Health professions recruitment program for Indians.
''Sec. 104. Health professions preparatory scholarship program for Indians.
''Sec. 105. Indian health professions scholarships.
''Sec. 106. American Indians into psychology program.
''Sec. 107. Indian Health Service extern programs.
''Sec. 108. Continuing education allowances.
''Sec. 109. Community health representative program.
''Sec. 110. Indian Health Service loan repayment program.
''Sec. 111. Scholarship and loan repayment recovery fund.
''Sec. 112. Recruitment activities.
''Sec. 113. Tribal recruitment and retention program.
''Sec. 114. Advanced training and research.
''Sec. 115. Nursing programs; Quentin N. Burdick American Indians into Nursing Program.
''Sec. 116. Tribal culture and history.
''Sec. 117. INMED program.
''Sec. 118. Health training programs of community colleges.
''Sec. 119. Retention bonus.
''Sec. 120. Nursing residency program.
''Sec. 121. Community health aide program for Alaska.
''Sec. 122. Tribal health program administration.
''Sec. 123. Health professional chronic shortage demonstration project.
''Sec. 124. Scholarships.
''Sec. 125. National Health Service Corps.
''Sec. 126. Substance abuse counselor education demonstration project.
''Sec. 127. Mental health training and community education.
''Sec. 128. Authorization of appropriations.

''TITLE II—HEALTH SERVICES

''Sec. 201. Indian Health Care Improvement Fund.
''Sec. 202. Catastrophic Health Emergency Fund.
''Sec. 203. Health promotion and disease prevention services.
''Sec. 204. Diabetes prevention, treatment, and control.
''Sec. 205. Shared services.
''Sec. 206. Health services research.
''Sec. 207. Mammography and other cancer screening.
''Sec. 208. Patient travel costs.
''Sec. 209. Epidemiology centers.
''Sec. 210. Comprehensive school health education programs.
''Sec. 211. Indian youth program.
''Sec. 212. Prevention, control, and elimination of communicable and infectious diseases.
''Sec. 213. Authority for provision of other services.
''Sec. 214. Indian women's health care.
''Sec. 215. Environmental and nuclear health hazards.
''Sec. 216. Arizona as a contract health service delivery area.
''Sec. 216A. North Dakota as a contract health service delivery area.
''Sec. 216B. South Dakota as a contract health service delivery area.
''Sec. 217. California contract health services demonstration program.
''Sec. 218. California as a contract health service delivery area.
''Sec. 219. Contract health services for the Trenton service area.

''Sec. 220. Programs operated by Indian tribes and tribal organizations.
''Sec. 221. Licensing.
''Sec. 222. Authorization for emergency contract health services.
''Sec. 223. Prompt action on payment of claims.
''Sec. 224. Liability for payment.
''Sec. 225. Authorization of appropriations.

''TITLE III—FACILITIES

''Sec. 301. Consultation, construction and renovation of facilities; reports.
''Sec. 302. Safe water and sanitary waste disposal facilities.
''Sec. 303. Preference to Indians and Indian firms.
''Sec. 304. Soboba sanitation facilities.
''Sec. 305. Expenditure of nonservice funds for renovation.
''Sec. 306. Funding for the construction, expansion, and modernization of small ambulatory care facilities.
''Sec. 307. Indian health care delivery demonstration project.
''Sec. 308. Land transfer.
''Sec. 309. Leases.
''Sec. 310. Loans, loan guarantees and loan repayment.
''Sec. 311. Tribal leasing.
''Sec. 312. Indian Health Service/tribal facilities joint venture program.
''Sec. 313. Location of facilities.
''Sec. 314. Maintenance and improvement of health care facilities.
''Sec. 315. Tribal management of Federally-owned quarters.
''Sec. 316. Applicability of buy American requirement.
''Sec. 317. Other funding for facilities.
''Sec. 318. Authorization of appropriations.

''TITLE IV—ACCESS TO HEALTH SERVICES

''Sec. 401. Treatment of payments under medicare program.
''Sec. 402. Treatment of payments under medicaid program.
''Sec. 403. Report.
''Sec. 404. Grants to and funding agreements with the service, Indian tribes or tribal organizations, and urban Indian organizations.
''Sec. 405. Direct billing and reimbursement of medicare, medicaid, and other third party payors.
''Sec. 406. Reimbursement from certain third parties of costs of health services.
''Sec. 407. Crediting of reimbursements.
''Sec. 408. Purchasing health care coverage.
''Sec. 409. Indian Health Service, Department of Veteran's Affairs, and other Federal agency health facilities and services sharing.
''Sec. 410. Payor of last resort.
''Sec. 411. Right to recover from Federal health care programs.
''Sec. 412. Tuba City demonstration project.
''Sec. 413. Access to Federal insurance.
''Sec. 414. Consultation and rulemaking.
''Sec. 415. Limitations on charges.
''Sec. 416. Limitation on Secretary's waiver authority.
''Sec. 417. Waiver of medicare and medicaid sanctions.
''Sec. 418. Meaning of 'remuneration' for purposes of safe harbor provisions; antitrust immunity.
''Sec. 419. Co-insurance, co-payments, deductibles and premiums.
''Sec. 420. Inclusion of income and resources for purposes of medically needy medicaid eligibility.
''Sec. 421. Estate recovery provisions.
''Sec. 422. Medical child support.
''Sec. 423. Provisions relating to managed care.
''Sec. 424. Navajo Nation medicaid agency.
''Sec. 425. Indian advisory committees.
''Sec. 426. Authorization of appropriations.

''TITLE V—HEALTH SERVICES FOR URBAN INDIANS

''Sec. 501. Purpose.
''Sec. 502. Contracts with, and grants to, urban Indian organizations.
''Sec. 503. Contracts and grants for the provision of health care and referral services.
''Sec. 504. Contracts and grants for the determination of unmet health care needs.
''Sec. 505. Evaluations; renewals.
''Sec. 506. Other contract and grant requirements.
''Sec. 507. Reports and records.
''Sec. 508. Limitation on contract authority.
''Sec. 509. Facilities.
''Sec. 510. Office of Urban Indian Health.
''Sec. 511. Grants for alcohol and substance abuse related services.
''Sec. 512. Treatment of certain demonstration projects.
''Sec. 513. Urban NIAAA transferred programs.
''Sec. 514. Consultation with urban Indian organizations.
''Sec. 515. Federal Tort Claims Act coverage.
''Sec. 516. Urban youth treatment center demonstration.
''Sec. 517. Use of Federal government facilities and sources of supply.
''Sec. 518. Grants for diabetes prevention, treatment and control.
''Sec. 519. Community health representatives.
''Sec. 520. Regulations.
''Sec. 521. Authorization of appropriations.

''TITLE VI—ORGANIZATIONAL IMPROVEMENTS

''Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.
''Sec. 602. Automated management information system.
''Sec. 603. Authorization of appropriations.

''TITLE VII—BEHAVIORAL HEALTH PROGRAMS

''Sec. 701. Behavioral health prevention and treatment services.
''Sec. 702. Memorandum of agreement with the Department of the Interior.
''Sec. 703. Comprehensive behavioral health prevention and treatment program.
''Sec. 704. Mental health technician program.
''Sec. 705. Licensing requirement for mental health care workers.
''Sec. 706. Indian women treatment programs.
''Sec. 707. Indian youth program.
''Sec. 708. Inpatient and community-based mental health facilities design, construction and staffing assessment.
''Sec. 709. Training and community education.
''Sec. 710. Behavioral health program.
''Sec. 711. Fetal alcohol disorder funding.
''Sec. 712. Child sexual abuse and prevention treatment programs.
''Sec. 713. Behavioral mental health research.
''Sec. 714. Definitions.
''Sec. 715. Authorization of appropriations.

''TITLE VIII—MISCELLANEOUS

''Sec. 801. Reports.
''Sec. 802. Regulations.
''Sec. 803. Plan of implementation.
''Sec. 804. Availability of funds.
''Sec. 805. Limitation on use of funds appropriated to the Indian Health Service.
''Sec. 806. Eligibility of California Indians.
''Sec. 807. Health services for ineligible persons.
''Sec. 808. Reallocation of base resources.
''Sec. 809. Results of demonstration projects.
''Sec. 810. Provision of services in Montana.
''Sec. 811. Moratorium.
''Sec. 812. Tribal employment.
''Sec. 813. Prime vendor.
''Sec. 814. National Bi-Partisan Commission on Indian Health Care Entitlement.
''Sec. 815. Appropriations; availability.
''Sec. 816. Authorization of appropriations.

''SEC. 2. FINDINGS.

''Congress makes the following findings:

''(1) Federal delivery of health services and funding of tribal and urban Indian health programs to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with the American Indian people, as reflected in the Constitution, treaties, Federal laws, and the course of dealings of the United States with Indian Tribes, and the United States' resulting government to government and trust responsibility and obligations to the American Indian people.

''(2) From the time of European occupation and colonization through the 20th century, the policies and practices of the United States caused or contributed to the severe health conditions of Indians.

''(3) Indian Tribes have, through the cession of over 400,000,000 acres of land to the United States in exchange for promises, often reflected in treaties, of health care secured a de facto contract that entitles Indians to health care in perpetuity, based on the moral, legal, and historic obligation of the United States.

''(4) The population growth of the Indian people that began in the later part of the 20th century increases the need for Federal health care services.

''(5) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians, regardless of where they live, to be raised to the highest possible level, a level that is not less than that of the general population, and to provide for the maximum participation of Indian Tribes, tribal organizations, and urban Indian organizations in the planning, delivery, and management of those services.

''(6) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of illnesses among, and unnecessary and premature deaths of, Indians.

''(7) Despite such services, the unmet health needs of the American Indian people remain alarmingly severe, and even continue to increase, and the health status of the Indians is far below the health status of the general population of the United States.

''(8) The disparity in health status that is to be addressed is formidable. In death rates

for example, Indian people suffer a death rate for diabetes mellitus that is 249 percent higher than the death rate for all races in the United States, a pneumonia and influenza death rate that is 71 percent higher, a tuberculosis death rate that is 533 percent higher, and a death rate from alcoholism that is 627 percent higher.

"SEC. 3. DECLARATION OF HEALTH OBJECTIVES.

''Congress hereby declares that it is the policy of the United States, in fulfillment of its special trust responsibilities and legal obligations to the American Indian people—

''(1) to assure the highest possible health status for Indians and to provide all resources necessary to effect that policy;

''(2) to raise the health status of Indians by the year 2010 to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto;

''(3) in order to raise the health status of Indian people to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto, to permit Indian Tribes and tribal organizations to set their own health care priorities and establish goals that reflect their unmet needs;

''(4) to increase the proportion of all degrees in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each geographic service area is raised to at least the level of that of the general population;

''(5) to require meaningful, active consultation with Indian Tribes, Indian organizations, and urban Indian organizations to implement this Act and the national policy of Indian self-determination; and

''(6) that funds for health care programs and facilities operated by Tribes and tribal organizations be provided in amounts that are not less than the funds that are provided to programs and facilities operated directly by the Service.

"SEC. 4. DEFINITIONS.

''In this Act:

''(1) ACCREDITED AND ACCESSIBLE.—The term 'accredited and accessible', with respect to an entity, means a community college or other appropriate entity that is on or near a reservation and accredited by a national or regional organization with accrediting authority.

''(2) AREA OFFICE.—The term 'area office' means an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

''(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary of the Indian Health as established under section 601.

''(4) CONTRACT HEALTH SERVICE.—The term 'contract health service' means a health service that is provided at the expense of the Service, Indian Tribe, or tribal organization by a public or private medical provider or hospital, other than a service funded under the Indian Self-Determination and Education Assistance Act or under this Act.

''(5) DEPARTMENT.—The term 'Department', unless specifically provided otherwise, means the Department of Health and Human Services.

''(6) FUND.—The terms 'fund' or 'funding' mean the transfer of monies from the Department to any eligible entity or individual under this Act by any legal means, including funding agreements, contracts, memoranda of understanding, Buy Indian Act contracts, or otherwise.

''(7) FUNDING AGREEMENT.—The term 'funding agreement' means any agreement to transfer funds for the planning, conduct, and administration of programs, functions, services and activities to Tribes and tribal organizations from the Secretary under the authority of the Indian Self-Determination and Education Assistance Act.

''(8) HEALTH PROFESSION.—The term 'health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, and allied health professions, or any other health profession.

''(9) HEALTH PROMOTION; DISEASE PREVENTION.—The terms 'health promotion' and 'disease prevention' shall have the meanings given such terms in paragraphs (1) and (2) of section 203(c).

''(10) INDIAN.—The term 'Indian' and 'Indians' shall have meanings given such terms for purposes of the Indian Self-Determination and Education Assistance Act.

''(11) INDIAN HEALTH PROGRAM.—The term 'Indian health program' shall have the meaning given such term in section 110(a)(2)(A).

''(12) INDIAN TRIBE.—The term 'Indian tribe' shall have the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act.

''(13) RESERVATION.—The term 'reservation' means any Federally recognized Indian tribe's reservation, Pueblo or colony, including former reservations in Oklahoma, Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act, and Indian allotments.

''(14) SECRETARY.—The term 'Secretary', unless specifically provided otherwise, means the Secretary of Health and Human Services.

''(15) SERVICE.—The term 'Service' means the Indian Health Service.

''(16) SERVICE AREA.—The term 'service area' means the geographical area served by each area office.

''(17) SERVICE UNIT.—The term 'service unit' means—

''(A) an administrative entity within the Indian Health Service; or

''(B) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act, through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

''(18) TRADITIONAL HEALTH CARE PRACTICES.—The term 'traditional health care practices' means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to western healing sciences) which embodies the influences or forces of innate tribal discovery, history, description, explanation and knowledge of the states of wellness and illness and which calls upon these influences or forces, including physical, mental, and spiritual forces in the promotion, restoration, preservation and maintenance of health, well-being, and life's harmony.

''(19) TRIBAL ORGANIZATION.—The term 'tribal organization' shall have the meaning given such term in section 4(l) of the Indian Self Determination and Education Assistance Act.

''(20) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term 'tribally controlled community college' shall have the meaning given such term in section 126 (g)(2).

''(21) URBAN CENTER.—The term 'urban center' means any community that has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

''(22) URBAN INDIAN.—The term 'urban Indian' means any individual who resides in an urban center and who—

''(A) for purposes of title V and regardless of whether such individual lives on or near a reservation, is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those tribes, bands or groups that are recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member;

''(B) is an Eskimo or Aleut or other Alaskan Native;

''(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

''(D) is determined to be an Indian under regulations promulgated by the Secretary.

''(23) URBAN INDIAN ORGANIZATION.—The term 'urban Indian organization' means a nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the participation of all interested Indian groups and individuals, and which is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

"TITLE I—INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT

"SEC. 101. PURPOSE.

''The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health services to Indian people.

"SEC. 102. GENERAL REQUIREMENTS.

''(a) SERVICE AREA PRIORITIES.—Unless specifically provided otherwise, amounts appropriated for each fiscal year to carry out each program authorized under this title shall be allocated by the Secretary to the area office of each service area using a formula—

''(1) to be developed in consultation with Indian Tribes, tribal organizations and urban Indian organizations;

''(2) that takes into account the human resource and development needs in each such service area; and

''(3) that weighs the allocation of amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

''(b) CONSULTATION.—Each area office receiving funds under this title shall actively and continuously consult with representatives of Indian tribes, tribal organizations, and urban Indian organizations to prioritize the utilization of funds provided under this title within the service area.

''(c) REALLOCATION.—Unless specifically prohibited, an area office may reallocate funds provided to the office under this title among the programs authorized by this title, except that scholarship and loan repayment funds shall not be used for administrative functions or expenses.

''(d) LIMITATION.—This section shall not apply with respect to individual recipients of scholarships, loans or other funds provided under this title (as this title existed 1 day prior to the date of enactment of this Act) until such time as the individual completes

the course of study that is supported through the use of such funds.

"SEC. 103. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall make funds available through the area office to public or nonprofit private health entities, or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

''(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

''(A) to enroll in courses of study in such health professions; or

''(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

''(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undertaking training necessary to qualify them to enroll in any such course of study; or

''(3) establishing other programs which the area office determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1).

''(b) ADMINISTRATIVE PROVISIONS.—

''(1) APPLICATION.—To be eligible to receive funds under this section an entity described in subsection (a) shall submit to the Secretary, through the appropriate area office, and have approved, an application in such form, submitted in such manner, and containing such information as the Secretary shall by regulation prescribe.

''(2) PREFERENCE.—In awarding funds under this section, the area office shall give a preference to applications submitted by Indian tribes, tribal organizations, or urban Indian organizations.

''(3) AMOUNT.—The amount of funds to be provided to an eligible entity under this section shall be determined by the area office. Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations promulgated pursuant to this Act.

''(4) TERMS.—A funding commitment under this section shall, to the extent not otherwise prohibited by law, be for a term of 3 years, as provided for in regulations promulgated pursuant to this Act.

''(c) DEFINITION.—For purposes of this section and sections 104 and 105, the terms 'Indian' and 'Indians' shall, in addition to the definition provided for in section 4, mean any individual who—

''(1) irrespective of whether such individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those Tribes, bands, or groups terminated since 1940;

''(2) is an Eskimo or Aleut or other Alaska Native;

''(3) is considered by the Secretary of the Interior to be an Indian for any purpose; or

''(4) is determined to be an Indian under regulations promulgated by the Secretary.

"SEC. 104. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide scholarships through the area offices to Indians who—

''(1) have successfully completed their high school education or high school equivalency; and

''(2) have demonstrated the capability to successfully complete courses of study in the health professions.

''(b) PURPOSE.—Scholarships provided under this section shall be for the following purposes:

''(1) Compensatory preprofessional education of any recipient. Such scholarship shall not exceed 2 years on a full-time basis (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act).

''(2) Pregraduate education of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act) except that an extension of up to 2 years may be approved by the Secretary.

''(c) USE OF SCHOLARSHIP.—Scholarships made under this section may be used to cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school.

''(d) LIMITATIONS.—Scholarship assistance to an eligible applicant under this section shall not be denied solely on the basis of—

''(1) the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution; or

''(2) the applicant's eligibility for assistance or benefits under any other Federal program.

"SEC. 105. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

''(a) SCHOLARSHIPS.—

''(1) IN GENERAL.—In order to meet the needs of Indians, Indian tribes, tribal organizations, and urban Indian organizations for health professionals, the Secretary, acting through the Service and in accordance with this section, shall provide scholarships through the area offices to Indians who are enrolled full or part time in accredited schools and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall, except as provided in subsection (b), be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 254l).

''(2) NO DELEGATION.—The Director of the Service shall administer this section and shall not delegate any administrative functions under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act.

''(b) ELIGIBILITY.—

''(1) ENROLLMENT.—An Indian shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full or part time in a course of study referred to in subsection (a)(1).

''(2) SERVICE OBLIGATION.—

''(A) PUBLIC HEALTH SERVICE ACT.—The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 254l) that an Indian has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice on an equivalent year for year obligation, by service—

''(i) in the Indian Health Service;

''(ii) in a program conducted under a funding agreement entered into under the Indian Self-Determination and Education Assistance Act;

''(iii) in a program assisted under title V; or

''(iv) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''(B) DEFERRING ACTIVE SERVICE.—At the request of any Indian who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

''(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

''(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

''(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (iv) of subparagraph (A).

''(C) NEW SCHOLARSHIP RECIPIENTS.—A recipient of an Indian Health Scholarship that is awarded after December 31, 2003, shall meet the active duty service obligation under such scholarship by providing service within the service area from which the scholarship was awarded. In placing the recipient for active duty the area office shall give priority to the program that funded the recipient, except that in cases of special circumstances, a recipient may be placed in a different service area pursuant to an agreement between the areas or programs involved.

''(D) PRIORITY IN ASSIGNMENT.—Subject to subparagraph (C), the area office, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in subparagraph (A), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(3) PART-TIME ENROLLMENT.—In the case of an Indian receiving a scholarship under this section who is enrolled part time in an approved course of study—

''(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the appropriate area office;

''(B) the period of obligated service described in paragraph (2)(A) shall be equal to the greater of—

''(i) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the area office); or

''(ii) two years; and

''(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254l(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

''(4) BREACH OF CONTRACT.—

''(A) IN GENERAL.—An Indian who has, on or after the date of the enactment of this paragraph, entered into a written contract with the area office pursuant to a scholarship under this section and who—

''(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) is dismissed from such educational institution for disciplinary reasons;

''(iii) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

''(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him or her, or on his or her behalf, under the contract.

''(B) FAILURE TO PERFORM SERVICE OBLIGATION.—If for any reason not specified in subparagraph (A) an individual breaches his or her written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(C) DEATH.—Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

''(D) WAIVER.—The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary, in consultation with the appropriate area office, Indian tribe, tribal organization, and urban Indian organization, determines that—

''(i) it is not possible for the recipient to meet that obligation or make that payment;

''(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

''(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

''(E) HARDSHIP OR GOOD CAUSE.—Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

''(F) BANKRUPTCY.—Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

''(c) FUNDING FOR TRIBES FOR SCHOLARSHIP PROGRAMS.—

''(1) PROVISION OF FUNDS.—

''(A) IN GENERAL.—The Secretary shall make funds available, through area offices, to Indian Tribes and tribal organizations for the purpose of assisting such Tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

''(B) LIMITATION.—The Secretary shall ensure that amounts available for grants under subparagraph (A) for any fiscal year shall not exceed an amount equal to 5 percent of the amount available for each fiscal year for Indian Health Scholarships under this section.

''(C) APPLICATION.—An application for funds under subparagraph (A) shall be in such form and contain such agreements, assurances and information as consistent with this section.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—An Indian Tribe or tribal organization receiving funds under paragraph (1) shall agree to provide scholarships to Indians in accordance with the requirements of this subsection.

''(B) MATCHING REQUIREMENT.—With respect to the costs of providing any scholarship pursuant to subparagraph (A)—

''(i) 80 percent of the costs of the scholarship shall be paid from the funds provided under paragraph (1) to the Indian Tribe or tribal organization; and

''(ii) 20 percent of such costs shall be paid from any other source of funds.

''(3) ELIGIBILITY.—An Indian Tribe or tribal organization shall provide scholarships under this subsection only to Indians who are enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in this Act.

''(4) CONTRACTS.—In providing scholarships under paragraph (1), the Secretary and the Indian Tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

''(A) obligate such recipient to provide service in an Indian health program (as defined in section 110(a)(2)(A)) in the same service area where the Indian Tribe or tribal organization providing the scholarship is located, for—

''(i) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

''(ii) such greater period of time as the recipient and the Indian Tribe or tribal organization may agree;

''(B) provide that the scholarship—

''(i) may only be expended for—

''(I) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

''(II) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

''(ii) may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in clause (i);

''(C) require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

''(D) require the recipient of such scholarship to meet the educational and licensure requirements appropriate to the health profession involved.

''(5) BREACH OF CONTRACT.—

''(A) IN GENERAL.—An individual who has entered into a written contract with the Secretary and an Indian Tribe or tribal organization under this subsection and who—

''(i) fails to maintain an acceptable level of academic standing in the education institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) is dismissed from such education for disciplinary reasons;

''(iii) voluntarily terminates the training in such an educational institution for which he or she has been provided a scholarship under such contract before the completion of such training; or

''(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract;

shall be liable to the United States for the Federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract.

''(B) FAILURE TO PERFORM SERVICE OBLIGATION.—If for any reason not specified in subparagraph (A), an individual breaches his or her written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(C) INFORMATION.—The Secretary may carry out this subsection on the basis of information received from Indian Tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary deems appropriate.

''(6) REQUIRED AGREEMENTS.—The recipient of a scholarship under paragraph (1) shall agree, in providing health care pursuant to the requirements of this subsection—

''(A) not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX of such Act; and

''(B) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

''(7) PAYMENTS.—The Secretary, through the area office, shall make payments under this subsection to an Indian Tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary or area office determines that, for the immediately preceding fiscal year, the Indian Tribe or tribal organization has not complied with the requirements of this subsection.

''SEC. 106. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

''(a) IN GENERAL.—Notwithstanding section 102, the Secretary shall provide funds to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. These programs shall be located at various colleges and universities throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time.

''(b) QUENTIN N. BURDICK AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.—The Secretary shall provide funds under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115, the Quentin N. Burdick Indians

into Health Program authorized under section 117, and existing university research and communications networks.

''(c) REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall promulgate regulations pursuant to this Act for the competitive awarding of funds under this section.

''(2) PROGRAM.—Applicants for funds under this section shall agree to provide a program which, at a minimum—

''(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and accredited and accessible community colleges that will be served by the program;

''(B) incorporates a program advisory board comprised of representatives from the Tribes and communities that will be served by the program;

''(C) provides summer enrichment programs to expose Indian students to the various fields of psychology through research, clinical, and experimental activities;

''(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

''(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students;

''(F) utilizes, to the maximum extent feasible, existing university tutoring, counseling and student support services; and

''(G) employs, to the maximum extent feasible, qualified Indians in the program.

''(d) ACTIVE DUTY OBLIGATION.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (c)(2)(C) that is funded under this section. Such obligation shall be met by service—

''(1) in the Indian Health Service;

''(2) in a program conducted under a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act;

''(3) in a program assisted under title V; or

''(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''SEC. 107. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

''(a) IN GENERAL.—Any individual who receives a scholarship pursuant to section 105 shall be entitled to employment in the Service, or may be employed by a program of an Indian tribe, tribal organization, or urban Indian organization, or other agency of the Department as may be appropriate and available, during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship.

''(b) ENROLLEES IN COURSE OF STUDY.—Any individual who is enrolled in a course of study in the health professions may be employed by the Service or by an Indian tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

''(c) HIGH SCHOOL PROGRAMS.—Any individual who is in a high school program authorized under section 103(a) may be employed by the Service, or by a Indian Tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

''(d) ADMINISTRATIVE PROVISIONS.—Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department.

''SEC. 108. CONTINUING EDUCATION ALLOWANCES.

''In order to encourage health professionals, including for purposes of this section, community health representatives and emergency medical technicians, to join or continue in the Service or in any program of an Indian tribe, tribal organization, or urban Indian organization and to provide their services in the rural and remote areas where a significant portion of the Indian people reside, the Secretary, acting through the area offices, may provide allowances to health professionals employed in the Service or such a program to enable such professionals to take leave of their duty stations for a period of time each year (as prescribed by regulations of the Secretary) for professional consultation and refresher training courses.

''SEC. 109. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary shall maintain a Community Health Representative Program under which the Service, Indian tribes and tribal organizations—

''(1) provide for the training of Indians as community health representatives; and

''(2) use such community health representatives in the provision of health care, health promotion, and disease prevention services to Indian communities.

''(b) ACTIVITIES.—The Secretary, acting through the Community Health Representative Program, shall—

''(1) provide a high standard of training for community health representatives to ensure that the community health representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program;

''(2) in order to provide such training, develop and maintain a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

''(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty;

''(3) maintain a system which identifies the needs of community health representatives for continuing education in health care, health promotion, and disease prevention and maintain programs that meet the needs for such continuing education;

''(4) maintain a system that provides close supervision of community health representatives;

''(5) maintain a system under which the work of community health representatives is reviewed and evaluated; and

''(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

''SEC. 110. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (referred to in this Act as the 'Loan Repayment Program') in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

''(2) DEFINITIONS.—In this section:

''(A) INDIAN HEALTH PROGRAM.—The term 'Indian health program' means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered—

''(i) directly by the Service;

''(ii) by any Indian tribe or tribal or Indian organization pursuant to a funding agreement under—

''(I) the Indian Self-Determination and Educational Assistance Act; or

''(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47) (commonly known as the 'Buy-Indian Act'); or

''(iii) by an urban Indian organization pursuant to title V.

''(B) STATE.—The term 'State' has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

''(b) ELIGIBILITY.—To be eligible to participate in the Loan Repayment Program, an individual must—

''(1)(A) be enrolled—

''(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

''(ii) in an approved graduate training program in a health profession; or

''(B) have—

''(i) a degree in a health profession; and

''(ii) a license to practice a health profession in a State;

''(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

''(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

''(C) meet the professional standards for civil service employment in the Indian Health Service; or

''(D) be employed in an Indian health program without a service obligation; and

''(3) submit to the Secretary an application for a contract described in subsection (f).

''(c) FORMS.—

''(1) IN GENERAL.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of the contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

''(2) FORMS TO BE UNDERSTANDABLE.—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in

a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

''(3) AVAILABILITY.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

''(d) PRIORITY.—

''(1) ANNUAL DETERMINATIONS.—The Secretary, acting through the Service and in accordance with subsection (k), shall annually—

''(A) identify the positions in each Indian health program for which there is a need or a vacancy; and

''(B) rank those positions in order of priority.

''(2) PRIORITY IN APPROVAL.—Notwithstanding the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall—

''(A) give first priority to applications made by individual Indians; and

''(B) after making determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to—

''(i) individuals recruited through the efforts an Indian tribe, tribal organization, or urban Indian organization; and

''(ii) other individuals based on the priority rankings under paragraph (1).

''(e) CONTRACTS.—

''(1) IN GENERAL.—An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).

''(2) NOTICE.—Not later than 21 days after considering an individual for participation in the Loan Repayment Program under paragraph (1), the Secretary shall provide written notice to the individual of—

''(A) the Secretary's approving of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

''(B) the Secretary's disapproving an individual's participation in such Program.

''(f) WRITTEN CONTRACT.—The written contract referred to in this section between the Secretary and an individual shall contain—

''(1) an agreement under which—

''(A) subject to paragraph (3), the Secretary agrees—

''(i) to pay loans on behalf of the individual in accordance with the provisions of this section; and

''(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe, tribal organization, or urban Indian organization as provided in subparagraph (B)(iii); and

''(B) subject to paragraph (3), the individual agrees—

''(i) to accept loan payments on behalf of the individual;

''(ii) in the case of an individual described in subsection (b)(1)—

''(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

''(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

''(iii) to serve for a time period (referred to in this section as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

''(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

''(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

''(4) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

''(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

''(g) LOAN REPAYMENTS.—

''(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

''(A) tuition expenses;

''(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

''(C) reasonable living expenses as determined by the Secretary.

''(2) AMOUNT OF PAYMENT.—

''(A) IN GENERAL.—For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

''(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

''(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

''(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

''(B) TIME FOR PAYMENT.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made not later than the end of the fiscal year in which the individual completes such year of service.

''(3) SCHEDULE FOR PAYMENTS.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

''(h) COUNTING OF INDIVIDUALS.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

''(i) RECRUITING PROGRAMS.—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other health professional programs of the Service at educational institutions training health professionals or specialists identified in subsection (a).

''(j) NONAPPLICATION OF CERTAIN PROVISION.—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

''(k) ASSIGNMENT OF INDIVIDUALS.—The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

''(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

''(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(l) BREACH OF CONTRACT.—

''(1) IN GENERAL.—An individual who has entered into a written contract with the Secretary under this section and who—

''(A) is enrolled in the final year of a course of study and who—

''(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) voluntarily terminates such enrollment; or

''(iii) is dismissed from such educational institution before completion of such course of study; or

''(B) is enrolled in a graduate training program, and who fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii),

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

''(2) AMOUNT OF RECOVERY.—If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A=3Z(t-s/t)$$

in which—

''(A) 'A' is the amount the United States is entitled to recover;

''(B) 'Z' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

''(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

''(D) 's' is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in medicare payments pursuant to section 1892 of the Social Security Act.

''(3) DAMAGES.—

''(A) TIME FOR PAYMENT.—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach of contract or such longer period beginning on such date as shall be specified by the Secretary.

''(B) DELINQUENCIES.—If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

''(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

''(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

''(C) CONTRACTS FOR RECOVERY OF DAMAGES.—Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

''(m) CANCELLATION, WAIVER OR RELEASE.—

''(1) CANCELLATION.—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

''(2) WAIVER OF SERVICE OBLIGATION.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

''(3) WAIVER OF RIGHTS OF UNITED STATES.—The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

''(4) RELEASE.—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

''(n) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

''(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

''(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

''(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

''(4) the amount of loan payments made under this section, in total and by health profession;

''(5) the number of scholarship grants that are provided under section 105 with respect to each health profession;

''(6) the amount of scholarship grants provided under section 105, in total and by health profession;

''(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the 3 fiscal years beginning after the date the report is filed; and

''(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes, tribal organizations, or urban Indian organizations for which recruitment or retention is difficult.

''SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

''(a) ESTABLISHMENT.—Notwithstanding section 102, there is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (referred to in this section as the 'LRRF'). The LRRF Fund shall consist of—

''(1) such amounts as may be collected from individuals under subparagraphs (A) and (B) of section 105(b)(4) and section 110(l) for breach of contract;

''(2) such funds as may be appropriated to the LRRF;

''(3) such interest earned on amounts in the LRRF; and

''(4) such additional amounts as may be collected, appropriated, or earned relative to the LRRF.

Amounts appropriated to the LRRF shall remain available until expended.

''(b) USE OF LRRF.—

''(1) IN GENERAL.—Amounts in the LRRF may be expended by the Secretary, subject to section 102, acting through the Service, to make payments to the Service or to an Indian tribe or tribal organization administering a health care program pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act—

''(A) to which a scholarship recipient under section 105 or a loan repayment program participant under section 110 has been assigned to meet the obligated service requirements pursuant to sections; and

''(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 105 or section 110.

''(2) SCHOLARSHIPS AND RECRUITING.—An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or to recruit and employ, directly or by contract, health professionals to provide health care services.

''(c) INVESTING OF FUND.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the LRRF as the Secretary determines are not required to meet current withdrawals from the LRRF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(2) SALE PRICE.—Any obligation acquired by the LRRF may be sold by the Secretary of the Treasury at the market price.

''SEC. 112. RECRUITMENT ACTIVITIES.

''(a) REIMBURSEMENT OF EXPENSES.—The Secretary may reimburse health professionals seeking positions in the Service, Indian tribes, tribal organizations, or urban Indian organizations, including unpaid student volunteers and individuals considering entering into a contract under section 110, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

''(b) ASSIGNMENT OF PERSONNEL.—The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.

''SEC. 113. TRIBAL RECRUITMENT AND RETENTION PROGRAM.

''(a) FUNDING OF PROJECTS.—The Secretary, acting through the Service, shall fund innovative projects for a period not to exceed 3 years to enable Indian tribes, tribal organizations, and urban Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 110(a)(2)(A)).

''(b) ELIGIBILITY.—Any Indian tribe, tribal organization, or urban Indian organization may submit an application for funding of a project pursuant to this section.

''SEC. 114. ADVANCED TRAINING AND RESEARCH.

''(a) DEMONSTRATION PROJECT.—The Secretary, acting through the Service, shall establish a demonstration project to enable health professionals who have worked in an Indian health program (as defined in section 110) for a substantial period of time to pursue advanced training or research in areas of study for which the Secretary determines a need exists.

''(b) SERVICE OBLIGATION.—

''(1) IN GENERAL.—An individual who participates in the project under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least the period of time during which the individual participates in such project.

''(2) FAILURE TO COMPLETE SERVICE.—In the event that an individual fails to complete a period of obligated service under paragraph (1), the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the project after the date of the enactment of this Act, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(c) OPPORTUNITY TO PARTICIPATE.—Health professionals from Indian tribes, tribal organizations, and urban Indian organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to participate in the program under subsection (a).

''SEC. 115. NURSING PROGRAMS; QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.

''(a) GRANTS.—Notwithstanding section 102, the Secretary, acting through the Service, shall provide funds to—

''(1) public or private schools of nursing;

''(2) tribally controlled community colleges and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

''(3) nurse midwife programs, and advance practice nurse programs, that are provided by any tribal college accredited nursing program, or in the absence of such, any other public or private institution,

for the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

''(b) USE OF GRANTS.—Funds provided under subsection (a) may be used to—

''(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses;

''(2) provide scholarships to Indian individuals enrolled in such programs that may be used to pay the tuition charged for such program and for other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses;

''(3) provide a program that encourages nurses, nurse midwives, and advanced practice nurses to provide, or continue to provide, health care services to Indians;

''(4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses; or

''(5) provide any program that is designed to achieve the purpose described in subsection (a).

''(c) APPLICATIONS.—Each application for funds under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

''(d) PREFERENCES.—In providing funds under subsection (a), the Secretary shall extend a preference to—

''(1) programs that provide a preference to Indians;

''(2) programs that train nurse midwives or advanced practice nurses;

''(3) programs that are interdisciplinary; and

''(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

''(e) QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.—The Secretary shall ensure that a portion of the funds authorized under subsection (a) is made available to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick Indian Health Programs established under section 117(b).

''(f) SERVICE OBLIGATION.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded under subsection (a). Such obligation shall be met by service—

''(1) in the Indian Health Service;

''(2) in a program conducted under a contract entered into under the Indian Self-Determination and Education assistance Act;

''(3) in a program assisted under title V; or

''(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''SEC. 116. TRIBAL CULTURE AND HISTORY.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall require that appropriate employees of the Service who serve Indian tribes in each service area receive educational instruction in the history and culture of such tribes and their relationship to the Service.

''(b) REQUIREMENTS.—To the extent feasible, the educational instruction to be provided under subsection (a) shall—

''(1) be provided in consultation with the affected tribal governments, tribal organizations, and urban Indian organizations;

''(2) be provided through tribally-controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1978) and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

''(3) include instruction in Native American studies.

''SEC. 117. INMED PROGRAM.

''(a) GRANTS.—The Secretary may provide grants to 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the 'Indians into Medicine Program' (referred to in this section as 'INMED') as a means of encouraging Indians to enter the health professions.

''(b) QUENTIN N. BURDICK INDIAN HEALTH PROGRAM.—The Secretary shall provide 1 of the grants under subsection (a) to maintain the INMED program at the University of North Dakota, to be known as the 'Quentin N. Burdick Indian Health Program', unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall develop regulations to govern grants under to this section.

''(2) PROGRAM REQUIREMENTS.—Applicants for grants provided under this section shall agree to provide a program that—

''(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program;

''(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program;

''(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions;

''(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university; and

''(E) to the maximum extent feasible, employs qualified Indians in the program.

''SEC. 118. HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES.

''(a) ESTABLISHMENT GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation, in the Service, or in a tribal health program.

''(2) AMOUNT.—The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

''(b) CONTINUATION GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

''(2) ELIGIBILITY.—Grants may only be made under this subsection to a community college that—

''(A) is accredited;

''(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

''(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

''(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals; and

''(ii) stipulate certifications necessary to approve internship and field placement opportunities at health programs of the Service or at tribal health programs;

''(D) has a qualified staff which has the appropriate certifications;

''(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1); and

''(F) agrees to provide for Indian preference for applicants for programs under this section.

''(c) SERVICE PERSONNEL AND TECHNICAL ASSISTANCE.—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

''(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs, and

''(2) providing technical assistance and support to such colleges.

''(d) SPECIFIED COURSES OF STUDY.—Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

''(1) has already received a degree or diploma in such health profession; and

''(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

''(e) PRIORITY.—Priority shall be provided under this section to tribally controlled colleges in service areas that meet the requirements of subsection (b).

''(f) DEFINITIONS.—In this section:

''(1) COMMUNITY COLLEGE.—The term 'community college' means—

''(A) a tribally controlled community college; or

''(B) a junior or community college.

''(2) JUNIOR OR COMMUNITY COLLEGE.—The term 'junior or community college' has the meaning given such term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

''(3) TRIBALLY CONTROLLED COLLEGE.—The term 'tribally controlled college' has the meaning given the term 'tribally controlled community college' by section 2(4) of the Tribally Controlled Community College Assistance Act of 1978.

''SEC. 119. RETENTION BONUS.

''(a) IN GENERAL.—The Secretary may pay a retention bonus to any health professional employed by, or assigned to, and serving in, the Service, an Indian tribe, a tribal organization, or an urban Indian organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

''(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult;

''(2) the Secretary determines is needed by the Service, tribe, tribal organization, or urban organization;

''(3) has—

''(A) completed 3 years of employment with the Service; tribe, tribal organization, or urban organization; or

''(B) completed any service obligations incurred as a requirement of—

''(i) any Federal scholarship program; or

''(ii) any Federal education loan repayment program; and

''(4) enters into an agreement with the Service, Indian tribe, tribal organization, or urban Indian organization for continued employment for a period of not less than 1 year.

''(b) RATES.—The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

''(c) FAILURE TO COMPLETE TERM OF SERVICE.—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(l)(2)(B).

''(d) FUNDING AGREEMENT.—The Secretary may pay a retention bonus to any health professional employed by an organization providing health care services to Indians pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act if such health professional is serving in a position which the Secretary determines is—

''(1) a position for which recruitment or retention is difficult; and

''(2) necessary for providing health care services to Indians.

''SEC. 120. NURSING RESIDENCY PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 110(a)(2)(A)), and have done so for a period of not less than 1 year, to pursue advanced training.

''(b) REQUIREMENT.—The program established under subsection (a) shall include a combination of education and work study in an Indian health program (as defined in section 110(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse) or an advanced degrees in nursing and public health.

''(c) SERVICE OBLIGATION.—An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to the amount of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''SEC. 121. COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; commonly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

''(1) provides for the training of Alaska Natives as health aides or community health practitioners;

''(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

''(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

''(b) ACTIVITIES.—The Secretary, acting through the Community Health Aide Program under subsection (a), shall—

''(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

''(2) in order to provide such training, develop a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

''(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

''(C) promotes the achievement of the health status objective specified in section 3(b);

''(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or who can demonstrate equivalent experience;

''(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

''(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

''(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

''SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.

''Subject to Section 102, the Secretary, acting through the Service, shall, through a funding agreement or otherwise, provide training for Indians in the administration and planning of tribal health programs.

''SEC. 123. HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROJECT.

''(a) PILOT PROGRAMS.—The Secretary may, through area offices, fund pilot programs for tribes and tribal organizations to address chronic shortages of health professionals.

''(b) PURPOSE.—It is the purpose of the health professions demonstration project under this section to—

''(1) provide direct clinical and practical experience in a service area to health professions students and residents from medical schools;

''(2) improve the quality of health care for Indians by assuring access to qualified health care professionals; and

''(3) provide academic and scholarly opportunities for health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

''(c) ADVISORY BOARD.—A pilot program established under subsection (a) shall incorporate a program advisory board that shall be composed of representatives from the tribes and communities in the service area that will be served by the program.

''SEC. 124. SCHOLARSHIPS.

''Scholarships and loan reimbursements provided to individuals pursuant to this title shall be treated as 'qualified scholarships' for purposes of section 117 of the Internal Revenue Code of 1986.

''SEC. 125. NATIONAL HEALTH SERVICE CORPS.

''(a) LIMITATIONS.—The Secretary shall not—

''(1) remove a member of the National Health Services Corps from a health program operated by Indian Health Service or by a tribe or tribal organization under a funding agreement with the Service under the Indian Self-Determination and Education Assistance Act, or by urban Indian organizations; or

''(2) withdraw the funding used to support such a member;

unless the Secretary, acting through the Service, tribes or tribal organization, has ensured that the Indians receiving services from such member will experience no reduction in services.

''(b) DESIGNATION OF SERVICE AREAS AS HEALTH PROFESSIONAL SHORTAGE AREAS.—All service areas served by programs operated by the Service or by a tribe or tribal organization under the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization, shall be designated under section 332 of the Public Health Service Act (42 U.S.C. 254e) as Health Professional Shortage Areas.

''(c) FULL TIME EQUIVALENT.—National Health Service Corps scholars that qualify for the commissioned corps in the Public Health Service shall be exempt from the full time equivalent limitations of the National Health Service Corps and the Service when such scholars serve as commissioned corps officers in a health program operated by an Indian tribe or tribal organization under the Indian Self-Determination and Education Assistance Act or by an urban Indian organization.

''SEC. 126. SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT.

''(a) DEMONSTRATION PROJECTS.—The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

''(b) USE OF FUNDS.—Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

''(c) TERM OF GRANT.—A contract entered into or a grant provided under this section shall be for a period of 1 year. Such contract or grant may be renewed for an additional 1 year period upon the approval of the Secretary.

''(d) REVIEW OF APPLICATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

''(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

''(f) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

''(g) DEFINITIONS.—In this section:

''(1) EDUCATIONAL CURRICULUM.—The term 'educational curriculum' means 1 or more of the following:

''(A) Classroom education.

''(B) Clinical work experience.

''(C) Continuing education workshops.

''(2) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term 'tribally controlled community college' has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

''(3) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTION.—The term 'tribally controlled postsecondary vocational institution' has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

"SEC. 127. MENTAL HEALTH TRAINING AND COMMUNITY EDUCATION.

''(a) STUDY AND LIST.—

''(1) IN GENERAL.—The Secretary and the Secretary of the Interior in consultation with Indian tribes and tribal organizations shall conduct a study and compile a list of the types of staff positions specified in subsection (b) whose qualifications include or should include, training in the identification, prevention, education, referral or treatment of mental illness, dysfunctional or self-destructive behavior.

''(2) POSITIONS.—The positions referred to in paragraph (1) are—

''(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

''(i) elementary and secondary education;

''(ii) social services, family and child welfare;

''(iii) law enforcement and judicial services; and

''(iv) alcohol and substance abuse;

''(B) staff positions within the Service; and

''(C) staff positions similar to those specified in subsection (b) and established and maintained by Indian tribes, tribal organizations, and urban Indian organizations, including positions established pursuant to funding agreements under the Indian Self-determination and Education Assistance Act, and this Act.

''(3) TRAINING CRITERIA.—

''(A) IN GENERAL.—The appropriate Secretary shall provide training criteria appropriate to each type of position specified in subsection (b)(1) and ensure that appropriate training has been or will be provided to any individual in any such position.

''(B) TRAINING.—With respect to any such individual in a position specified pursuant to subsection (b)(3), the respective Secretaries shall provide appropriate training or provide funds to an Indian tribe, tribal organization, or urban Indian organization for the training of appropriate individuals. In the case of a funding agreement, the appropriate Secretary shall ensure that such training costs are included in the funding agreement, if necessary.

''(4) CULTURAL RELEVANCY.—Position specific training criteria shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional health care practices is provided.

''(5) COMMUNITY EDUCATION.—

''(A) DEVELOPMENT.—The Service shall develop and implement, or on request of an Indian tribe or tribal organization, assist an Indian tribe or tribal organization, in developing and implementing a program of community education on mental illness.

''(B) TECHNICAL ASSISTANCE.—In carrying out this paragraph, the Service shall, upon the request of an Indian tribe or tribal organization, provide technical assistance to the Indian tribe or tribal organization to obtain and develop community educational materials on the identification, prevention, referral and treatment of mental illness, dysfunctional and self-destructive behavior.

''(b) STAFFING.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Act, the Director of the Service shall develop a plan under which the Service will increase the number of health care staff that are providing mental health services by at least 500 positions within 5 years after such date of enactment, with at least 200 of such positions devoted to child, adolescent, and family services. The allocation of such positions shall be subject to the provisions of section 102(a).

''(2) IMPLEMENTATION.—The plan developed under paragraph (1) shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly know as the 'Snyder Act').

"SEC. 128. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE II—HEALTH SERVICES

"SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

''(a) IN GENERAL.—The Secretary may expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act, that are appropriated under the authority of this section, for the purposes of—

''(1) eliminating the deficiencies in the health status and resources of all Indian tribes;

''(2) eliminating backlogs in the provision of health care services to Indians;

''(3) meeting the health needs of Indians in an efficient and equitable manner;

''(4) eliminating inequities in funding for both direct care and contract health service programs; and

''(5) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian tribes with the highest levels of health status and resource deficiencies:

''(A) clinical care, including inpatient care, outpatient care (including audiology, clinical eye and vision care), primary care, secondary and tertiary care, and long term care;

''(B) preventive health, including mammography and other cancer screening in accordance with section 207;

''(C) dental care;

''(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care practitioners;

''(E) emergency medical services;

''(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

''(G) accident prevention programs;

''(H) home health care;

''(I) community health representatives;

''(J) maintenance and repair; and

''(K) traditional health care practices.

''(b) USE OF FUNDS.—

''(1) LIMITATION.—Any funds appropriated under the authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act, the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other provision of law.

''(2) ALLOCATION.—

''(A) IN GENERAL.—Funds appropriated under the authority of this section shall be allocated to service units or Indian tribes or tribal organizations. The funds allocated to each tribe, tribal organization, or service unit under this subparagraph shall be used to improve the health status and reduce the resource deficiency of each tribe served by such service unit, tribe or tribal organization. Such allocation shall weigh the amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians for all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

''(B) APPORTIONMENT.—The apportionment of funds allocated to a service unit, tribe or tribal organization under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian tribes in accordance with this section and such rules as may be established under title VIII.

''(c) HEALTH STATUS AND RESOURCE DEFICIENCY.—In this section:

''(1) DEFINITION.—The term 'health status and resource deficiency' means the extent to which—

''(A) the health status objective set forth in section 3(2) is not being achieved; and

''(B) the Indian tribe or tribal organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

''(2) RESOURCES.—The health resources available to an Indian tribe or tribal organization shall include health resources provided by the Service as well as health resources used by the Indian Tribe or tribal organization, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

''(3) REVIEW OF DETERMINATION.—The Secretary shall establish procedures which allow any Indian tribe or tribal organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such tribe or tribal organization.

''(d) ELIGIBILITY.—Programs administered by any Indian tribe or tribal organization

under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

''(e) REPORT.—Not later than the date that is 3 years after the date of enactment of this Act, the Secretary shall submit to the Congress the current health status and resource deficiency report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

''(1) the methodology then in use by the Service for determining tribal health status and resource deficiencies, as well as the most recent application of that methodology;

''(2) the extent of the health status and resource deficiency of each Indian tribe served by the Service;

''(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and

''(4) an estimate of—

''(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity;

''(B) the number of Indians eligible for health services in each service unit or Indian tribe or tribal organization; and

''(C) the number of Indians using the Service resources made available to each service unit or Indian tribe or tribal organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

''(f) BUDGETARY RULE.—Funds appropriated under the authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

''(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs or to discourage the Service from undertaking additional efforts to achieve equity among Indian tribes and tribal organizations.

''(h) DESIGNATION.—Any funds appropriated under the authority of this section shall be designated as the 'Indian Health Care Improvement Fund'.

''SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is hereby established an Indian Catastrophic Health Emergency Fund (referred to in this section as the 'CHEF') consisting of—

''(A) the amounts deposited under subsection (d); and

''(B) any amounts appropriated to the CHEF under this Act.

''(2) ADMINISTRATION.—The CHEF shall be administered by the Secretary solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

''(3) EQUITABLE ALLOCATION.—The CHEF shall be equitably allocated, apportioned or delegated on a service unit or area office basis, based upon a formula to be developed by the Secretary in consultation with the Indian tribes and tribal organizations through negotiated rulemaking under title VIII. Such formula shall take into account the added needs of service areas which are contract health service dependent.

''(4) NOT SUBJECT TO CONTRACT OR GRANT.—No part of the CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act.

''(5) ADMINISTRATION.—Amounts provided from the CHEF shall be administered by the area offices based upon priorities determined by the Indian tribes and tribal organizations within each service area, including a consideration of the needs of Indian tribes and tribal organizations which are contract health service-dependent.

''(b) REQUIREMENTS.—The Secretary shall, through the negotiated rulemaking process under title VIII, promulgate regulations consistent with the provisions of this section—

''(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the CHEF;

''(2) provide that a service unit, Indian tribe, or tribal organization shall not be eligible for reimbursement for the cost of treatment from the CHEF until its cost of treatment for any victim of such a catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

''(A) for 1999, not less than $19,000; and

''(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

''(3) establish a procedure for the reimbursement of the portion of the costs incurred by—

''(A) service units, Indian tribes, or tribal organizations, or facilities of the Service; or

''(B) non-Service facilities or providers whenever otherwise authorized by the Service;

in rendering treatment that exceeds threshold cost described in paragraph (2);

''(4) establish a procedure for payment from the CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

''(5) establish a procedure that will ensure that no payment shall be made from the CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

''(c) LIMITATION.—Amounts appropriated to the CHEF under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act) or any other law.

''(d) DEPOSITS.—There shall be deposited into the CHEF all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the CHEF.

''SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

''(a) FINDINGS.—Congress finds that health promotion and disease prevention activities will—

''(1) improve the health and well-being of Indians; and

''(2) reduce the expenses for health care of Indians.

''(b) PROVISION OF SERVICES.—The Secretary, acting through the Service and through Indian tribes and tribal organizations, shall provide health promotion and disease prevention services to Indians so as to achieve the health status objective set forth in section 3(b).

''(c) DISEASE PREVENTION AND HEALTH PROMOTION.—In this section:

''(1) DISEASE PREVENTION.—The term 'disease prevention' means the reduction, limitation, and prevention of disease and its complications, and the reduction in the consequences of such diseases, including—

''(A) controlling—

''(i) diabetes;

''(ii) high blood pressure;

''(iii) infectious agents;

''(iv) injuries;

''(v) occupational hazards and disabilities;

''(vi) sexually transmittable diseases; and

''(vii) toxic agents; and

''(B) providing—

''(i) for the fluoridation of water; and

''(ii) immunizations.

''(2) HEALTH PROMOTION.—The term 'health promotion' means fostering social, economic, environmental, and personal factors conducive to health, including—

''(A) raising people's awareness about health matters and enabling them to cope with health problems by increasing their knowledge and providing them with valid information;

''(B) encouraging adequate and appropriate diet, exercise, and sleep;

''(C) promoting education and work in conformity with physical and mental capacity;

''(E) making available suitable housing, safe water, and sanitary facilities;

''(F) improving the physical economic, cultural, psychological, and social environment;

''(G) promoting adequate opportunity for spiritual, religious, and traditional practices; and

''(H) adequate and appropriate programs including—

''(i) abuse prevention (mental and physical);

''(iii) community health;

''(iv) community safety;

''(v) consumer health education;

''(vi) diet and nutrition;

''(vii) disease prevention (communicable, immunizations, HIV/AIDS);

''(viii) environmental health;

''(ix) exercise and physical fitness;

''(x) fetal alcohol disorders;

''(xi) first aid and CPR education;

''(xii) human growth and development;

''(xiii) injury prevention and personal safety;

''(xiv) mental health (emotional, self-worth);

''(xv) personal health and wellness practices;

''(xvi) personal capacity building;

''(xvii) prenatal, pregnancy, and infant care;

''(xviii) psychological well being;

''(xix) reproductive health (family planning);

''(xx) safe and adequate water;

''(xxi) safe housing;

''(xxii) safe work environments;

''(xxiii) stress control;

''(xxiv) substance abuse;

''(xxv) sanitary facilities;

''(xxvi) tobacco use cessation and reduction;

''(xxvii) violence prevention; and

''(xxviii) such other activities identified by the Service, an Indian tribe or tribal organization, to promote the achievement of the objective described in section 3(b).

''(d) EVALUATION.—The Secretary, after obtaining input from affected Indian tribes and tribal organizations, shall submit to the President for inclusion in each statement which is required to be submitted to Congress under section 801 an evaluation of—

''(1) the health promotion and disease prevention needs of Indians;

''(2) the health promotion and disease prevention activities which would best meet such needs;

''(3) the internal capacity of the Service to meet such needs; and

''(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

''SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

''(a) DETERMINATION.—The Secretary, in consultation with Indian tribes and tribal organizations, shall determine—

''(1) by tribe, tribal organization, and service unit of the Service, the prevalence of, and the types of complications resulting from, diabetes among Indians; and

''(2) based on paragraph (1), the measures (including patient education) each service unit should take to reduce the prevalence of, and prevent, treat, and control the complications resulting from, diabetes among Indian tribes within that service unit.

''(b) SCREENING.—The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by an Indian tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act.

''(c) CONTINUED FUNDING.—The Secretary shall continue to fund, through fiscal year 2015, each effective model diabetes project in existence on the date of the enactment of this Act and such other diabetes programs operated by the Secretary or by Indian tribes and tribal organizations and any additional programs added to meet existing diabetes needs. Indian tribes and tribal organizations shall receive recurring funding for the diabetes programs which they operate pursuant to this section. Model diabetes projects shall consult, on a regular basis, with tribes and tribal organizations in their regions regarding diabetes needs and provide technical expertise as needed.

''(d) DIALYSIS PROGRAMS.—The Secretary shall provide funding through the Service, Indian tribes and tribal organizations to establish dialysis programs, including funds to purchase dialysis equipment and provide necessary staffing.

''(e) OTHER ACTIVITIES.—The Secretary shall, to the extent funding is available—

''(1) in each area office of the Service, consult with Indian tribes and tribal organizations regarding programs for the prevention, treatment, and control of diabetes;

''(2) establish in each area office of the Service a registry of patients with diabetes to track the prevalence of diabetes and the complications from diabetes in that area; and

''(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to tribes, tribal organizations, and all other area offices.

''SEC. 205. SHARED SERVICES.

''(a) IN GENERAL.—The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into funding agreements or other arrangements with Indian tribes or tribal organizations for the delivery of long-term care and similar services to Indians. Such projects shall provide for the sharing of staff or other services between a Service or tribal facility and a long-term care or other similar facility owned and operated (directly or through a funding agreement) by such Indian tribe or tribal organization.

''(b) REQUIREMENTS.—A funding agreement or other arrangement entered into pursuant to subsection (a)—

''(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

''(2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

''(3) may authorize such tribe or tribal organization to construct, renovate, or expand a long-term care or other similar facility (including the construction of a facility attached to a Service facility).

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

''(d) USE OF EXISTING FACILITIES.—The Secretary shall encourage the use for long-term or similar care of existing facilities that are under-utilized or allow the use of swing beds for such purposes.

''SEC. 206. HEALTH SERVICES RESEARCH.

''(a) FUNDING.—The Secretary shall make funding available for research to further the performance of the health service responsibilities of the Service, Indian tribes, and tribal organizations and shall coordinate the activities of other Agencies within the Department to address these research needs.

''(b) ALLOCATION.—Funding under subsection (a) shall be allocated equitably among the area offices. Each area office shall award such funds competitively within that area.

''(c) ELIGIBILITY FOR FUNDS.—Indian tribes and tribal organizations receiving funding from the Service under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to compete for, and receive, research funds under this section.

''(d) USE.—Funds received under this section may be used for both clinical and nonclinical research by Indian tribes and tribal organizations and shall be distributed to the area offices. Such area offices may make grants using such funds within each area.

''SEC. 207. MAMMOGRAPHY AND OTHER CANCER SCREENING.

''The Secretary, through the Service or through Indian tribes or tribal organizations, shall provide for the following screening:

''(1) Mammography (as defined in section 1861(jj) of the Social Security Act) for Indian women at a frequency appropriate to such women under national standards, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.

''(2) Other cancer screening meeting national standards.

''SEC. 208. PATIENT TRAVEL COSTS.

''The Secretary, acting through the Service, Indian tribes and tribal organizations shall provide funds for the following patient travel costs, including appropriate and necessary qualified escorts, associated with receiving health care services provided (either through direct or contract care or through funding agreements entered into pursuant to the Indian Self-Determination and Education Assistance Act) under this Act:

''(1) Emergency air transportation and nonemergency air transportation where ground transportation is infeasible.

''(2) Transportation by private vehicle, specially equipped vehicle and ambulance.

''(3) Transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

''SEC. 209. EPIDEMIOLOGY CENTERS.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In addition to those centers operating 1 day prior to the date of enactment of this Act, (including those centers for which funding is currently being provided through funding agreements under the Indian Self-Determination and Education Assistance Act), the Secretary shall, not later than 180 days after such date of enactment, establish and fund an epidemiology center in each service area which does not have such a center to carry out the functions described in paragraph (2). Any centers established under the preceding sentence may be operated by Indian tribes or tribal organizations pursuant to funding agreements under the Indian Self-Determination and Education Assistance Act, but funding under such agreements may not be divisible.

''(2) FUNCTIONS.—In consultation with and upon the request of Indian tribes, tribal organizations and urban Indian organizations, each area epidemiology center established under this subsection shall, with respect to such area shall—

''(A) collect data related to the health status objective described in section 3(b), and monitor the progress that the Service, Indian tribes, tribal organizations, and urban Indian organizations have made in meeting such health status objective;

''(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

''(C) assist Indian tribes, tribal organizations, and urban Indian organizations in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

''(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

''(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

''(F) provide requested technical assistance to Indian Tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

''(G) provide disease surveillance and assist Indian tribes, tribal organizations, and urban Indian organizations to promote public health.

''(3) TECHNICAL ASSISTANCE.—The director of the Centers for Disease Control and Prevention shall provide technical assistance to the centers in carrying out the requirements of this subsection.

''(b) FUNDING.—The Secretary may make funding available to Indian tribes, tribal organizations, and eligible intertribal consortia or urban Indian organizations to conduct epidemiological studies of Indian communities.

''SEC. 210. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide funding to Indian tribes, tribal organizations, and urban Indian organizations to develop comprehensive school health education programs for children from preschool through grade 12 in schools for the benefit of Indian and urban Indian children.

''(b) USE OF FUNDS.—Funds awarded under this section may be used to—

''(1) develop and implement health education curricula both for regular school programs and after school programs;

''(2) train teachers in comprehensive school health education curricula;

''(3) integrate school-based, community-based, and other public and private health promotion efforts;

''(4) encourage healthy, tobacco-free school environments;

''(5) coordinate school-based health programs with existing services and programs available in the community;

''(6) develop school programs on nutrition education, personal health, oral health, and fitness;

''(7) develop mental health wellness programs;

''(8) develop chronic disease prevention programs;

''(9) develop substance abuse prevention programs;

''(10) develop injury prevention and safety education programs;

''(11) develop activities for the prevention and control of communicable diseases;

''(12) develop community and environmental health education programs that include traditional health care practitioners;

''(13) carry out violence prevention activities; and

''(14) carry out activities relating to such other health issues as are appropriate.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall, upon request, provide technical assistance to Indian tribes, tribal organizations and urban Indian organizations in the development of comprehensive health education plans, and the dissemination of comprehensive health education materials and information on existing health programs and resources.

''(d) CRITERIA.—The Secretary, in consultation with Indian tribes, tribal organizations, and urban Indian organizations shall establish criteria for the review and approval of applications for funding under this section.

''(e) COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.—

''(1) DEVELOPMENT.—The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary and affected Indian tribes and tribal organizations, shall develop a comprehensive school health education program for children from preschool through grade 12 for use in schools operated by the Bureau of Indian Affairs.

''(2) REQUIREMENTS.—The program developed under paragraph (1) shall include—

''(A) school programs on nutrition education, personal health, oral health, and fitness;

''(B) mental health wellness programs;

''(C) chronic disease prevention programs;

''(D) substance abuse prevention programs;

''(E) injury prevention and safety education programs; and

''(F) activities for the prevention and control of communicable diseases.

''(3) TRAINING AND COORDINATION.—The Secretary of the Interior shall—

''(A) provide training to teachers in comprehensive school health education curricula;

''(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

''(C) encourage healthy, tobacco-free school environments.

''SEC. 211. INDIAN YOUTH PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Service, is authorized to provide funding to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and urban Indian preadolescent and adolescent youths.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available under this section may be used to—

''(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional health care practitioners; and

''(B) develop and provide community training and education.

''(2) LIMITATION.—Funds made available under this section may not be used to provide services described in section 707(c).

''(c) REQUIREMENTS.—The Secretary shall—

''(1) disseminate to Indian tribes, tribal organizations, and urban Indian organizations information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

''(2) encourage the implementation of such models; and

''(3) at the request of an Indian tribe, tribal organization, or urban Indian organization, provide technical assistance in the implementation of such models.

''(d) CRITERIA.—The Secretary, in consultation with Indian tribes, tribal organization, and urban Indian organizations, shall establish criteria for the review and approval of applications under this section.

''SEC. 212. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

''(a) IN GENERAL.—The Secretary, acting through the Service after consultation with Indian tribes, tribal organizations, urban Indian organizations, and the Centers for Disease Control and Prevention, may make funding available to Indian tribes and tribal organizations for—

''(1) projects for the prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncitial virus, hanta virus, sexually transmitted diseases, and H. Pylori, which projects may include screening, testing and treatment for HCV and other infectious and communicable diseases;

''(2) public information and education programs for the prevention, control, and elimination of communicable and infectious diseases;

''(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals; and

''(4) a demonstration project that studies the seroprevalence of the Hepatitis C virus among a random sample of American Indian and Alaskan Native populations and identifies prevalence rates among a variety of tribes and geographic regions.

''(b) REQUIREMENT OF APPLICATION.—The Secretary may provide funds under subsection (a) only if an application or proposal for such funds is submitted.

''(c) TECHNICAL ASSISTANCE AND REPORT.—In carrying out this section, the Secretary—

''(1) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

''(2) shall prepare and submit, biennially, a report to Congress on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and urban Indians.

''SEC. 213. AUTHORITY FOR PROVISION OF OTHER SERVICES.

''(a) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, and tribal organizations, may provide funding under this Act to meet the objective set forth in section 3 through health care related services and programs not otherwise described in this Act. Such services and programs shall include services and programs related to—

''(1) hospice care and assisted living;

''(2) long-term health care;

''(3) home- and community-based services;

''(4) public health functions; and

''(5) traditional health care practices.

''(b) AVAILABILITY OF SERVICES FOR CERTAIN INDIVIDUALS.—At the discretion of the Service, Indian tribe, or tribal organization, services hospice care, home health care (under section 201), home- and community-based care, assisted living, and long term care may be provided (on a cost basis) to individuals otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to a tribe or tribal organization.

''(c) DEFINITIONS.—In this section:

''(1) HOME- AND COMMUNITY-BASED SERVICES.—The term 'home- and community-based services' means 1 or more of the following:

''(A) Homemaker/home health aide services.

''(B) Chore services.

''(C) Personal care services.

''(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

''(E) Training for family members.

''(F) Adult day care.

''(G) Such other home- and community-based services as the Secretary or a tribe or tribal organization may approve.

''(2) HOSPICE CARE.—The term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which an Indian tribe or tribal organization determines are necessary and appropriate to provide in furtherance of such care.

''(3) PUBLIC HEALTH FUNCTIONS.—The term 'public health functions' means public health related programs, functions, and services including assessments, assurances, and policy development that Indian tribes and tribal organizations are authorized and encouraged, in those circumstances where it meets their needs, to carry out by forming collaborative relationships with all levels of local, State, and Federal governments.

''SEC. 214. INDIAN WOMEN'S HEALTH CARE.

''The Secretary acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall provide funding to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

''SEC. 215. ENVIRONMENTAL AND NUCLEAR HEALTH HAZARDS.

''(a) STUDY AND MONITORING PROGRAMS.—The Secretary and the Service shall, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian tribes and tribal organizations, conduct a study and carry out ongoing monitoring programs to determine the trends that exist in the health hazards posed to Indian miners and to Indians on or near Indian reservations and in Indian communities as a result of environmental hazards that may result in chronic or life-threatening health problems. Such hazards include nuclear resource development, petroleum contamination, and contamination of the water source or of the food chain. Such study (and any reports with respect to such study) shall include—

''(1) an evaluation of the nature and extent of health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems;

''(2) an analysis of the potential effect of ongoing and future environmental resource development on or near Indian reservations and communities including the cumulative effect of such development over time on health;

''(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal, oil and gas production or transportation on or near Indian reservations or communities, and other development that could affect the health of Indians and their water supply and food chain;

''(4) a summary of any findings or recommendations provided in Federal and State studies, reports, investigations, and inspections during the 5 years prior to the date of the enactment of this Act that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

''(5) a description of the efforts that have been made by Federal and State agencies and resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such development.

''(b) DEVELOPMENT OF HEALTH CARE PLANS.—Upon the completion of the study under subsection (a), the Secretary and the Service shall take into account the results of such study and, in consultation with Indian tribes and tribal organizations, develop a health care plan to address the health problems that were the subject of such study. The plans shall include—

''(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

''(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other activities that have had or could have a serious impact upon the health of such individuals; and

''(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

''(c) SUBMISSION TO CONGRESS.—

''(1) GENERAL REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary and the Service shall submit to Congress a report concerning the study conducted under subsection (a).

''(2) HEALTH CARE PLAN REPORT.—Not later than 1 year after the date on which the report under paragraph (1) is submitted to Congress, the Secretary and the Service shall submit to Congress the health care plan prepared under subsection (b). Such plan shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address the health problems involved.

''(d) TASK FORCE.—

''(1) ESTABLISHED.—There is hereby established an Intergovernmental Task Force (referred to in this section as the 'task force') that shall be composed of the following individuals (or their designees):

''(A) The Secretary of Energy.

''(B) The Administrator of the Environmental Protection Agency.

''(C) The Director of the Bureau of Mines.

''(D) The Assistant Secretary for Occupational Safety and Health.

''(E) The Secretary of the Interior.

''(2) DUTIES.—The Task Force shall identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community, and enter into activities to correct existing health hazards and ensure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced.

''(3) ADMINISTRATIVE PROVISIONS.—The Secretary shall serve as the chairperson of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

''(e) PROVISION OF APPROPRIATE MEDICAL CARE.—In the case of any Indian who—

''(1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work related illness or condition;

''(2) is eligible to receive diagnosis and treatment services from a Service facility; and

''(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard;

the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.

''SEC. 216. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2015, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

''SEC. 216A. NORTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 2003, and ending with the fiscal year ending September 30, 2015, the State of North Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of North Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

''SEC. 216B. SOUTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 2003, and ending with the fiscal year ending September 30, 2015, the State of South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of South Dakota.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of South Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

''SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.

''(a) IN GENERAL.—The Secretary may fund a program that utilizes the California Rural Indian Health Board as a contract care intermediary to improve the accessibility of health services to California Indians.

''(b) REIMBURSEMENT OF BOARD.—

''(1) AGREEMENT.—The Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred pursuant to this section in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 218 with respect to high-cost contract care cases.

''(2) ADMINISTRATION.—Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be used for reimbursement for administrative expenses incurred by the Board during such fiscal year.

''(3) LIMITATION.—No payment may be made for treatment provided under this section to the extent that payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

''(c) ADVISORY BOARD.—There is hereby established an advisory board that shall advise the California Rural Indian Health Board in carrying out this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under this section, at least 50 percent of whom are not affiliated with the California Rural Indian Health Board.

''SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State, except that any of the counties described in this section may be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties.

''SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

"SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

''The Service shall provide funds for health care programs and facilities operated by Indian tribes and tribal organizations under funding agreements with the Service entered into under the Indian Self-Determination and Education Assistance Act on the same basis as such funds are provided to programs and facilities operated directly by the Service.

"SEC. 221. LICENSING.

''Health care professionals employed by Indian Tribes and tribal organizations to carry out agreements under the Indian Self-Determination and Education Assistance Act, shall, if licensed in any State, be exempt from the licensing requirements of the State in which the agreement is performed.

"SEC. 222. AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES.

''With respect to an elderly Indian or an Indian with a disability receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

"SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.

''(a) REQUIREMENT.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

''(b) FAILURE TO RESPOND.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

''(c) PAYMENT.—The Service shall pay a valid contract care service claim within 30 days after the completion of the claim.

"SEC. 224. LIABILITY FOR PAYMENT.

''(a) NO LIABILITY.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

''(b) NOTIFICATION.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.

''(c) LIMITATION.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under section 223(b), the provider shall have no further recourse against the patient who received the services involved.

"SEC. 225. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE III—FACILITIES

"SEC. 301. CONSULTATION, CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

''(a) CONSULTATION.—Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall—

''(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

''(2) ensure, whenever practicable, that such facility meets the construction standards of any nationally recognized accrediting body by not later than 1 year after the date on which the construction or renovation of such facility is completed.

''(b) CLOSURE OF FACILITIES.—

''(1) IN GENERAL.—Notwithstanding any provision of law other than this subsection, no Service hospital or outpatient health care facility or any inpatient service or special care facility operated by the Service, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such proposed closure an evaluation of the impact of such proposed closure which specifies, in addition to other considerations—

''(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

''(B) the cost effectiveness of such closure;

''(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

''(D) the availability of contract health care funds to maintain existing levels of service;

''(E) the views of the Indian tribes served by such hospital or facility concerning such closure;

''(F) the level of utilization of such hospital or facility by all eligible Indians; and

''(G) the distance between such hospital or facility and the nearest operating Service hospital.

''(2) TEMPORARY CLOSURE.—Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

''(c) PRIORITY SYSTEM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a health care facility priority system, that shall—

''(A) be developed with Indian tribes and tribal organizations through negotiated rulemaking under section 802;

''(B) give the needs of Indian tribes the highest priority, with additional priority being given to those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas; and

''(C) at a minimum, include the lists required in paragraph (2)(B) and the methodology required in paragraph (2)(E);

except that the priority of any project established under the construction priority system in effect on the date of this Act shall not be affected by any change in the construction priority system taking place thereafter if the project was identified as one of the top 10 priority inpatient projects or one of the top 10 outpatient projects in the Indian Health Service budget justification for fiscal year 2003, or if the project had completed both Phase I and Phase II of the construction priority system in effect on the date of this Act.

''(2) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report that includes—

''(A) a description of the health care facility priority system of the Service, as established under paragraph (1);

''(B) health care facility lists, including—

''(i) the total health care facility planning, design, construction and renovation needs for Indians;

''(ii) the 10 top-priority inpatient care facilities;

''(iii) the 10 top-priority outpatient care facilities;

''(iv) the 10 top-priority specialized care facilities (such as long-term care and alcohol and drug abuse treatment); and

''(v) any staff quarters associated with such prioritized facilities;

''(C) the justification for the order of priority among facilities;

''(D) the projected cost of the projects involved; and

''(E) the methodology adopted by the Service in establishing priorities under its health care facility priority system.

''(3) CONSULTATION.—In preparing each report required under paragraph (2) (other than the initial report) the Secretary shall annually—

''(A) consult with, and obtain information on all health care facilities needs from, Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act; and

''(B) review the total unmet needs of all tribes and tribal organizations for health care facilities (including staff quarters), including needs for renovation and expansion of existing facilities.

''(4) CRITERIA.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

''(5) EQUITABLE INTEGRATION.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities, operated under funding agreements in accordance with the Indian Self-Determination and Education Assistance Act are fully and equitably integrated into the health care facility priority system.

''(d) REVIEW OF NEED FOR FACILITIES.—

''(1) REPORT.—Beginning in 2004, the Secretary shall annually submit to the President, for inclusion in the report required to be transmitted to Congress under section 801 of this Act, a report which sets forth the needs of the Service and all Indian tribes and tribal organizations, including urban Indian organizations, for inpatient, outpatient and specialized care facilities, including the needs for renovation and expansion of existing facilities.

''(2) CONSULTATION.—In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, and with urban Indian organizations.

''(3) CRITERIA.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

''(4) EQUITABLE INTEGRATION.—The Secretary shall ensure that the planning, design, construction, and renovation needs of facilities operated under funding agreements, in accordance with the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the development of the health facility priority system.

''(5) ANNUAL NOMINATIONS.—Each year the Secretary shall provide an opportunity for the nomination of planning, design, and construction projects by the Service and all Indian tribes and tribal organizations for consideration under the health care facility priority system.

''(e) INCLUSION OF CERTAIN PROGRAMS.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of section 102 of the Indian Self-Determination and Education Assistance Act.

''(f) INNOVATIVE APPROACHES.—The Secretary shall consult and cooperate with Indian tribes, tribal organizations and urban Indian organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other approaches.

''SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

''(a) FINDINGS.—Congress finds and declares that—

''(1) the provision of safe water supply facilities and sanitary sewage and solid waste disposal facilities is primarily a health consideration and function;

''(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such facilities;

''(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such facilities and other preventive health measures;

''(4) many Indian homes and communities still lack safe water supply facilities and sanitary sewage and solid waste disposal facilities; and

''(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply facilities and sanitary sewage waste disposal facilities as soon as possible.

''(b) PROVISION OF FACILITIES AND SERVICES.—

''(1) IN GENERAL.—In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

''(2) ASSISTANCE.—The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)—

''(A) financial and technical assistance to Indian tribes, tribal organizations and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the tribe or tribal organization;

''(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

''(C) priority funding for the operation, and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

''(3) PROVISIONS RELATING TO FUNDING.—Notwithstanding any other provision of law—

''(A) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 to the Secretary of Health and Human Services;

''(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a);

''(C) unless specifically authorized when funds are appropriated, the Secretary of Health and Human Services shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

''(D) the Secretary of Health and Human Services is authorized to accept all Federal funds that are available for the purpose of providing sanitation facilities and related services and place those funds into funding agreements, authorized under the Indian Self-Determination and Education Assistance Act, between the Secretary and Indian tribes and tribal organizations;

''(E) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to fund up to 100 percent of the amount of a tribe's loan obtained under any Federal program for new projects to construct eligible sanitation facilities to serve Indian homes;

''(F) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to meet matching or cost participation requirements under other Federal and non-Federal programs for new projects to construct eligible sanitation facilities;

''(G) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned or appropriated and thereafter the Department's applicable policies, rules, regulations shall apply in the implementation of such projects;

''(H) the Secretary of Health and Human Services shall enter into inter-agency agreements with the Bureau of Indian Affairs, the Department of Housing and Urban Development, the Department of Agriculture, the Environmental Protection Agency and other appropriate Federal agencies, for the purpose of providing financial assistance for safe water supply and sanitary sewage disposal facilities under this Act; and

''(I) the Secretary of Health and Human Services shall, by regulation developed through rulemaking under section 802, establish standards applicable to the planning, design and construction of water supply and sanitary sewage and solid waste disposal facilities funded under this Act.

''(c) 10-YEAR FUNDING PLAN.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, shall develop and implement a 10-year funding plan to provide safe water supply and sanitary sewage and solid waste disposal facilities serving existing Indian homes and communities, and to new and renovated Indian homes.

''(d) CAPABILITY OF TRIBE OR COMMUNITY.—The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

''(e) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to Indian tribes, tribal organizations and communities for the operation, management, and maintenance of their sanitation facilities.

''(f) RESPONSIBILITY FOR FEES FOR OPERATION AND MAINTENANCE.—The Indian family, community or tribe involved shall have the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities. If a community facility is threatened with imminent failure and there is a lack of tribal capacity to maintain the integrity or the health benefit of the facility, the Secretary may assist the Tribe in the resolution of the problem on a short term basis through cooperation with the emergency coordinator or by providing operation and maintenance service.

''(g) ELIGIBILITY OF CERTAIN TRIBES OR ORGANIZATIONS.—Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for—

''(1) any funds appropriated pursuant to this section; and

''(2) any funds appropriated for the purpose of providing water supply, sewage disposal, or solid waste facilities;

on an equal basis with programs that are administered directly by the Service.

''(h) REPORT.—

''(1) IN GENERAL.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—

''(A) the current Indian sanitation facility priority system of the Service;

''(B) the methodology for determining sanitation deficiencies;

''(C) the level of initial and final sanitation deficiency for each type sanitation facility for each project of each Indian tribe or community; and

''(D) the amount of funds necessary to reduce the identified sanitation deficiency levels of all Indian tribes and communities to a level I sanitation deficiency as described in paragraph (4)(A).

''(2) CONSULTATION.—In preparing each report required under paragraph (1), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any funding agreements entered into with the Service under the Indian Self-Determination and Education Assistance Act) to determine the sanitation needs of each tribe and in developing the criteria on which the needs will be evaluated through a process of negotiated rulemaking.

''(3) METHODOLOGY.—The methodology used by the Secretary in determining, preparing cost estimates for and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

''(4) SANITATION DEFICIENCY LEVELS.—For purposes of this subsection, the sanitation deficiency levels for an individual or community sanitation facility serving Indian homes are as follows:

''(A) A level I deficiency is a sanitation facility serving and individual or community—

''(i) which complies with all applicable water supply, pollution control and solid waste disposal laws; and

''(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs.

''(B) A level II deficiency is a sanitation facility serving and individual or community—

''(i) which substantially or recently complied with all applicable water supply, pollution control and solid waste laws, in which the deficiencies relate to small or minor capital improvements needed to bring the facility back into compliance;

''(ii) in which the deficiencies relate to capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs for domestic sanitation facilities; or

''(iii) in which the deficiencies relate to the lack of equipment or training by an Indian Tribe or community to properly operate and maintain the sanitation facilities.

''(C) A level III deficiency is an individual or community facility with water or sewer service in the home, piped services or a haul system with holding tanks and interior plumbing, or where major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies. There is no access to or no approved or permitted solid waste facility available.

''(D) A level IV deficiency is an individual or community facility where there are no piped water or sewer facilities in the home or the facility has become inoperable due to major component failure or where only a washeteria or central facility exists.

''(E) A level V deficiency is the absence of a sanitation facility, where individual homes do not have access to safe drinking water or adequate wastewater disposal.

''(i) DEFINITIONS.—In this section:

''(1) FACILITY.—The terms 'facility' or 'facilities' shall have the same meaning as the terms 'system' or 'systems' unless the context requires otherwise.

''(2) INDIAN COMMUNITY.—The term 'Indian community' means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

''SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

''(a) IN GENERAL.—The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an 'Indian firm') in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to rules and regulations promulgated by the Secretary, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

''(1) ownership and control by Indians;

''(2) equipment;

''(3) bookkeeping and accounting procedures;

''(4) substantive knowledge of the project or function to be contracted for;

''(5) adequately trained personnel; or

''(6) other necessary components of contract performance.

''(b) EXEMPTION FROM DAVIS-BACON.—For the purpose of implementing the provisions of this title, construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are exempt from the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act). For all health facilities, staff quarters and sanitation facilities, construction and renovation subcontractors shall be paid wages at rates that are not less than the prevailing wage rates for similar construction in the locality involved, as determined by the Indian tribe, Tribes, or tribal organizations served by such facilities.

''SEC. 304. SOBOBA SANITATION FACILITIES.

''Nothing in the Act of December 17, 1970 (84 Stat. 1465) shall be construed to preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat 674), as amended by the Act of July 31, 1959 (73 Stat. 267).

''SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

''(a) PERMISSIBILITY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to accept any major expansion, renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act, including—

''(A) any plans or designs for such expansion, renovation or modernization; and

''(B) any expansion, renovation or modernization for which funds appropriated under any Federal law were lawfully expended;

but only if the requirements of subsection (b) are met.

''(2) PRIORITY LIST.—The Secretary shall maintain a separate priority list to address the need for increased operating expenses, personnel or equipment for such facilities described in paragraph (1). The methodology for establishing priorities shall be developed by negotiated rulemaking under section 802. The list of priority facilities will be revised annually in consultation with Indian tribes and tribal organizations.

''(3) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2).

''(b) REQUIREMENTS.—The requirements of this subsection are met with respect to any expansion, renovation or modernization if—

''(1) the tribe or tribal organization—

''(A) provides notice to the Secretary of its intent to expand, renovate or modernize; and

''(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel or equipment; and

''(2) the expansion renovation or modernization—

''(A) is approved by the appropriate area director of the Service for Federal facilities; and

''(B) is administered by the Indian tribe or tribal organization in accordance with any applicable regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

''(c) RIGHT OF TRIBE IN CASE OF FAILURE OF FACILITY TO BE USED AS A SERVICE FACILITY.—If any Service facility which has been expanded, renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such expansion, renovation or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation or modernization.

''SEC. 306. FUNDING FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES.

''(a) AVAILABILITY OF FUNDING.—

''(1) IN GENERAL.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organization, shall make funding available to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided for in subsections (b)(2) and (c)(1)(C)). Funding under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

''(2) REQUIREMENT.—Funding under paragraph (1) may only be made available to an Indian tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian tribe or tribal organization) pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

''(A) located apart from a hospital;

''(B) not funded under section 301 or section 307; and

''(C) which, upon completion of such construction, expansion, or modernization will—

''(i) have a total capacity appropriate to its projected service population;

''(ii) provide annually not less than 500 patient visits by eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B); and

''(iii) provide ambulatory care in a service area (specified in the funding agreement entered into under the Indian Self-Determination and Education Assistance Act) with a population of not less than 1,500 eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B).

''(2) LIMITATION.—Funding provided under this section may be used only for the cost of that portion of a construction, expansion or modernization project that benefits the service population described in clauses (ii) and (iii) of paragraph (1)(C). The requirements of such clauses (ii) and (iii) shall not apply to a tribe or tribal organization applying for funding under this section whose principal office for health care administration is located on an island or where such office is not located on a road system providing direct access to an inpatient hospital where care is available to the service population.

''(c) APPLICATION AND PRIORITY.—

''(1) APPLICATION.—No funding may be made available under this section unless an application for such funding has been submitted to and approved by the Secretary. An application or proposal for funding under this section shall be submitted in accordance with applicable regulations and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to funding received under this section—

''(A) adequate financial support will be available for the provision of services at such facility;

''(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

''(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

''(2) PRIORITY.—In awarding funds under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

''(A) a need for increased ambulatory care services; and

''(B) insufficient capacity to deliver such services.

''(d) FAILURE TO USE FACILITY AS HEALTH FACILITY.—If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, within 5 years after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian tribe or tribal organization.

''(e) NO INCLUSION IN TRIBAL SHARE.—Funding provided to Indian tribes and tribal organizations under this section shall be non-recurring and shall not be available for inclusion in any individual tribe's tribal share for an award under the Indian Self-Determination and Education Assistance Act or for reallocation or redesign thereunder.

"SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

''(a) HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, may enter into funding agreements with, or make grants or loan guarantees to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities, including hospice, traditional Indian health and child care facilities, to Indians.

''(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

''(1) waive any leasing prohibition;

''(2) permit carryover of funds appropriated for the provision of health care services;

''(3) permit the use of other available funds;

''(4) permit the use of funds or property donated from any source for project purposes;

''(5) provide for the reversion of donated real or personal property to the donor; and

''(6) permit the use of Service funds to match other funds, including Federal funds.

''(c) CRITERIA.—

''(1) IN GENERAL.—The Secretary shall develop and publish regulations through rulemaking under section 802 for the review and approval of applications submitted under this section. The Secretary may enter into a contract, funding agreement or award a grant under this section for projects which meet the following criteria:

''(A) There is a need for a new facility or program or the reorientation of an existing facility or program.

''(B) A significant number of Indians, including those with low health status, will be served by the project.

''(C) The project has the potential to address the health needs of Indians in an innovative manner.

''(D) The project has the potential to deliver services in an efficient and effective manner.

''(E) The project is economically viable.

''(F) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

''(G) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

''(2) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).

''(3) PRIORITY.—The Secretary shall give priority to applications for demonstration projects under this section in each of the following service units to the extent that such applications are filed in a timely manner and otherwise meet the criteria specified in paragraph (1):

''(A) Cass Lake, Minnesota.

''(B) Clinton, Oklahoma.

''(C) Harlem, Montana.

''(D) Mescalero, New Mexico.

''(E) Owyhee, Nevada.

''(F) Parker, Arizona.

''(G) Schurz, Nevada.

''(H) Winnebago, Nebraska.

''(I) Ft. Yuma, California.

''(d) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

''(e) SERVICE TO INELIGIBLE PERSONS.—The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in Service facilities to non-Service health care practitioners as provided in section 807 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

''(f) EQUITABLE TREATMENT.—For purposes of subsection (c)(1)(A), the Secretary shall, in evaluating facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

''(g) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, renovation and expansion needs of Service and non-Service facilities which are the subject of a funding agreement for health services entered into with the Service under the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

"SEC. 308. LAND TRANSFER.

''(a) GENERAL AUTHORITY FOR TRANSFERS.—Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

''(b) CHEMAWA INDIAN SCHOOL.—The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

"SEC. 309. LEASES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes and tribal organizations for periods not in excess of 20 years. Property leased by the Secretary from an Indian tribe or tribal organization may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe or tribal organization.

''(b) FACILITIES FOR THE ADMINISTRATION AND DELIVERY OF HEALTH SERVICES.—The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

''(1) title to;

''(2) a leasehold interest in; or

''(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes, and such leases shall be considered as operating leases for the purposes of scoring under the Budget Enforcement Act, notwithstanding any other provision of law. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable pursuant to regulations under section 105(l) of the Indian Self-Determination and Education Assistance Act.

"SEC. 310. LOANS, LOAN GUARANTEES AND LOAN REPAYMENT.

''(a) HEALTH CARE FACILITIES LOAN FUND.—There is established in the Treasury of the United States a fund to be known as the 'Health Care Facilities Loan Fund' (referred to in this Act as the 'HCFLF') to provide to Indian Tribes and tribal organizations direct loans, or guarantees for loans, for the construction of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities such as behavioral health and elder care facilities).

''(b) STANDARDS AND PROCEDURES.—The Secretary may promulgate regulations, developed through rulemaking as provided for in section 802, to establish standards and procedures for governing loans and loan guarantees under this section, subject to the following conditions:

''(1) The principal amount of a loan or loan guarantee may cover up to 100 percent of eligible costs, including costs for the planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, other facility related costs and capital purchase (but excluding staffing).

''(2) The cumulative total of the principal of direct loans and loan guarantees, respectively, outstanding at any one time shall not

exceed such limitations as may be specified in appropriation Acts.

''(3) In the discretion of the Secretary, the program under this section may be administered by the Service or the Health Resources and Services Administration (which shall be specified by regulation).

''(4) The Secretary may make or guarantee a loan with a term of the useful estimated life of the facility, or 25 years, whichever is less.

''(5) The Secretary may allocate up to 100 percent of the funds available for loans or loan guarantees in any year for the purpose of planning and applying for a loan or loan guarantee.

''(6) The Secretary may accept an assignment of the revenue of an Indian tribe or tribal organization as security for any direct loan or loan guarantee under this section.

''(7) In the planning and design of health facilities under this section, users eligible under section 807(b) may be included in any projection of patient population.

''(8) The Secretary shall not collect loan application, processing or other similar fees from Indian tribes or tribal organizations applying for direct loans or loan guarantees under this section.

''(9) Service funds authorized under loans or loan guarantees under this section may be used in matching other Federal funds.

''(c) FUNDING.—

''(1) IN GENERAL.—The HCFLF shall consist of—

''(A) such sums as may be initially appropriated to the HCFLF and as may be subsequently appropriated under paragraph (2);

''(B) such amounts as may be collected from borrowers; and

''(C) all interest earned on amounts in the HCFLF.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to initiate the HCFLF. For each fiscal year after the initial year in which funds are appropriated to the HCFLF, there is authorized to be appropriated an amount equal to the sum of the amount collected by the HCFLF during the preceding fiscal year, and all accrued interest on such amounts.

''(3) AVAILABILITY OF FUNDS.—Amounts appropriated, collected or earned relative to the HCFLF shall remain available until expended.

''(d) FUNDING AGREEMENTS.—Amounts in the HCFLF and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make loans under this section to an Indian tribe or tribal organization pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

''(e) INVESTMENTS.—The Secretary of the Treasury shall invest such amounts of the HCFLF as such Secretary determines are not required to meet current withdrawals from the HCFLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the fund may be sold by the Secretary of the Treasury at the market price.

''(f) GRANTS.—The Secretary is authorized to establish a program to provide grants to Indian tribes and tribal organizations for the purpose of repaying all or part of any loan obtained by an Indian tribe or tribal organization for construction and renovation of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities). Loans eligible for such repayment grants shall include loans that have been obtained under this section or otherwise.

''SEC. 311. TRIBAL LEASING.

''Indian Tribes and tribal organizations providing health care services pursuant to a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.

''SEC. 312. INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall make arrangements with Indian tribes and tribal organizations to establish joint venture demonstration projects under which an Indian tribe or tribal organization shall expend tribal, private, or other available funds, for the acquisition or construction of a health facility for a minimum of 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility.

''(2) USE OF RESOURCES.—A tribe or tribal organization may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

''(3) ELIGIBILITY OF CERTAIN ENTITIES.—A tribe that has begun and substantially completed the process of acquisition or construction of a health facility shall be eligible to establish a joint venture project with the Service using such health facility.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall enter into an arrangement under subsection (a)(1) with an Indian tribe or tribal organization only if—

''(A) the Secretary first determines that the Indian tribe or tribal organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in subsection (a)(1); and

''(B) the Indian tribe or tribal organization meets the needs criteria that shall be developed through the negotiated rulemaking process provided for under section 802.

''(2) CONTINUED OPERATION OF FACILITY.—The Secretary shall negotiate an agreement with the Indian tribe or tribal organization regarding the continued operation of a facility under this section at the end of the initial 10 year no-cost lease period.

''(3) BREACH OR TERMINATION OF AGREEMENT.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe or tribal organization, or paid to a third party on the tribe's or tribal organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence shall not apply to any funds expended for the delivery of health care services, or for personnel or staffing.

''(d) RECOVERY FOR NON-USE.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section shall be entitled to recover from the United States an amount that is proportional to the value of such facility should at any time within 10 years the Service ceases to use the facility or otherwise breaches the agreement.

''(e) DEFINITION.—In this section, the terms 'health facility' or 'health facilities' include staff quarters needed to provide housing for the staff of the tribal health program.

''SEC. 313. LOCATION OF FACILITIES.

''(a) PRIORITY.—The Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian owner and the Indian tribe with jurisdiction over such lands or other lands owned or leased by the Indian tribe or tribal organization so long as priority is given to Indian land owned by an Indian tribe or tribes.

''(b) DEFINITION.—In this section, the term 'Indian lands' means—

''(1) all lands within the exterior boundaries of any Indian reservation;

''(2) any lands title to which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power; and

''(3) all lands in Alaska owned by any Alaska Native village, or any village or regional corporation under the Alaska Native Claims Settlement Act, or any land allotted to any Alaska Native.

''SEC. 314. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.

''(a) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report that identifies the backlog of maintenance and repair work required at both Service and tribal facilities, including new facilities expected to be in operation in the fiscal year after the year for which the report is being prepared. The report shall identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

''(b) MAINTENANCE OF NEWLY CONSTRUCTED SPACE.—

''(1) IN GENERAL.—The Secretary may expend maintenance and improvement funds to support the maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Indian tribe or tribal organization.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'supportable space allocation' shall be defined through the negotiated rulemaking process provided for under section 802.

''(c) CONSTRUCTION OF REPLACEMENT FACILITIES.—

''(1) IN GENERAL.—In addition to using maintenance and improvement funds for the maintenance of facilities under subsection (b)(1), an Indian tribe or tribal organization may use such funds for the construction of a replacement facility if the costs of the renovation of such facility would exceed a maximum renovation cost threshold.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'maximum renovation cost threshold' shall be defined through the negotiated rulemaking process provided for under section 802.

''SEC. 315. TRIBAL MANAGEMENT OF FEDERALLY-OWNED QUARTERS.

''(a) ESTABLISHMENT OF RENTAL RATES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an Indian tribe or tribal organization which operates a hospital or other health facility and the Federally-owned quarters associated therewith, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, may establish the rental rates charged to the occupants of such quarters by

providing notice to the Secretary of its election to exercise such authority.

''(2) OBJECTIVES.—In establishing rental rates under paragraph (1), an Indian tribe or tribal organization shall attempt to achieve the following objectives:

''(A) The rental rates should be based on the reasonable value of the quarters to the occupants thereof.

''(B) The rental rates should generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and, subject to the discretion of the Indian tribe or tribal organization, to supply reserve funds for capital repairs and replacement of the quarters.

''(3) ELIGIBILITY FOR QUARTERS IMPROVEMENT AND REPAIR.—Any quarters whose rental rates are established by an Indian tribe or tribal organization under this subsection shall continue to be eligible for quarters improvement and repair funds to the same extent as other Federally-owned quarters that are used to house personnel in Service-supported programs.

''(4) NOTICE OF CHANGE IN RATES.—An Indian tribe or tribal organization that exercises the authority provided under this subsection shall provide occupants with not less than 60 days notice of any change in rental rates.

''(b) COLLECTION OF RENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, and subject to paragraph (2), an Indian tribe or a tribal organization that operates Federally-owned quarters pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

''(A) The Indian tribe or tribal organization shall notify the Secretary and the Federal employees involved of its election to exercise its authority to collect rents directly from such Federal employees.

''(B) Upon the receipt of a notice described in subparagraph (A), the Federal employees involved shall pay rents for the occupancy of such quarters directly to the Indian tribe or tribal organization and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise.

''(C) Such rent payments shall be retained by the Indian tribe or tribal organization and shall not be made payable to or otherwise be deposited with the United States.

''(D) Such rent payments shall be deposited into a separate account which shall be used by the Indian tribe or tribal organization for the maintenance (including capital repairs and replacement expenses) and operation of the quarters and facilities as the Indian tribe or tribal organization shall determine appropriate.

''(2) RETROCESSION.—If an Indian tribe or tribal organization which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying Federally-owned quarters, such retrocession shall become effective on the earlier of—

''(A) the first day of the month that begins not less than 180 days after the Indian tribe or tribal organization notifies the Secretary of its desire to retrocede; or

''(B) such other date as may be mutually agreed upon by the Secretary and the Indian tribe or tribal organization.

''(c) RATES.—To the extent that an Indian tribe or tribal organization, pursuant to authority granted in subsection (a), establishes rental rates for Federally-owned quarters provided to a Federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

''SEC. 316. APPLICABILITY OF BUY AMERICAN REQUIREMENT.

''(a) IN GENERAL.—The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 318, except that Indian tribes and tribal organizations shall be exempt from such requirements.

''(b) FALSE OR MISLEADING LABELING.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 318, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(c) DEFINITION.—In this section, the term 'Buy American Act' means title III of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933 (41 U.S.C. 10a et seq.).

''SEC. 317. OTHER FUNDING FOR FACILITIES.

''Notwithstanding any other provision of law—

''(1) the Secretary may accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design and construct health care facilities for Indians and to place such funds into funding agreements authorized under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) between the Secretary and an Indian tribe or tribal organization, except that the receipt of such funds shall not have an effect on the priorities established pursuant to section 301;

''(2) the Secretary may enter into interagency agreements with other Federal or State agencies and other entities and to accept funds from such Federal or State agencies or other entities to provide for the planning, design and construction of health care facilities to be administered by the Service or by Indian tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act in order to carry out the purposes of this Act, together with the purposes for which such funds are appropriated to such other Federal or State agency or for which the funds were otherwise provided;

''(3) any Federal agency to which funds for the construction of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to carry out the purposes of this Act as well as the purposes for which such funds are appropriated to such other Federal agency; and

''(4) the Secretary, acting through the Service, shall establish standards under regulations developed through rulemaking under section 802, for the planning, design and construction of health care facilities serving Indians under this Act.

''SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE IV—ACCESS TO HEALTH SERVICES

''SEC. 401. TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM.

''(a) IN GENERAL.—Any payments received by the Service, by an Indian tribe or tribal organization pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization pursuant to title V of this Act for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

''(b) EQUAL TREATMENT.—Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act in preference to an Indian beneficiary without such coverage.

''(c) SPECIAL FUND.—

''(1) USE OF FUNDS.—Notwithstanding any other provision of this title or of title XVIII of the Social Security Act, payments to which any facility of the Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of this title and of title XVIII of the Social Security Act. Any funds to be reimbursed which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes.

''(2) NONAPPLICATION IN CASE OF ELECTION FOR DIRECT BILLING.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for benefits under title XVIII of the Social Security Act.

''SEC. 402. TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM.

''(a) SPECIAL FUND.—

''(1) USE OF FUNDS.—Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of such title. Any payments which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives 100 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

''(2) NONAPPLICATION IN CASE OF ELECTION FOR DIRECT BILLING.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for medical assistance under title XIX of the Social Security Act.

''(b) PAYMENTS DISREGARDED FOR APPROPRIATIONS.—Any payments received under section 1911 of the Social Security Act for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.

''(c) DIRECT BILLING.—For provisions relating to the authority of certain Indian tribes and tribal organizations to elect to directly bill for, and receive payment for, health care services provided by a hospital or clinic of such tribes or tribal organizations and for which payment may be made under this title, see section 405.

''SEC. 403. REPORT.

''(a) INCLUSION IN ANNUAL REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801, an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements under titles XVIII and XIX of the Social Security Act.

''(b) IDENTIFICATION OF SOURCE OF PAYMENTS.—If an Indian tribe or tribal organization receives funding from the Service under the Indian Self-Determination and Education Assistance Act or an urban Indian organization receives funding from the Service under Title V of this Act and receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act, such Indian tribe or tribal organization, or urban Indian organization, shall provide to the Service a list of each provider enrollment number (or other identifier) under which it receives such reimbursements or payments.

''SEC. 404. GRANTS TO AND FUNDING AGREEMENTS WITH THE SERVICE, INDIAN TRIBES OR TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary shall make grants to or enter into funding agreements with Indian tribes and tribal organizations to assist such organizations in establishing and administering programs on or near Federal Indian reservations and trust areas and in or near Alaska Native villages to assist individual Indians to—

''(1) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

''(2) pay premiums for health insurance coverage; and

''(3) apply for medical assistance provided pursuant to titles XIX and XXI of the Social Security Act.

''(b) CONDITIONS.—The Secretary shall place conditions as deemed necessary to effect the purpose of this section in any funding agreement or grant which the Secretary makes with any Indian tribe or tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to—

''(1) determine the population of Indians to be served that are or could be recipients of benefits or assistance under titles XVIII, XIX, and XXI of the Social Security Act;

''(2) assist individual Indians in becoming familiar with and utilizing such benefits and assistance;

''(3) provide transportation to such individual Indians to the appropriate offices for enrollment or applications for such benefits and assistance;

''(4) develop and implement—

''(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for health insurance coverage of needy individuals; and

''(B) methods of improving the participation of Indians in receiving the benefits and assistance provided under titles XVIII, XIX, and XXI of the Social Security Act.

''(c) AGREEMENTS FOR RECEIPT AND PROCESSING OF APPLICATIONS.—The Secretary may enter into an agreement with an Indian tribe or tribal organization, or an urban Indian organization, which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act, child health assistance under title XXI of such Act and benefits under title XVIII of such Act by a Service facility or a health care program administered by such Indian tribe or tribal organization, or urban Indian organization, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act or a grant or contract entered into with an urban Indian organization under title V of this Act. Notwithstanding any other provision of law, such agreements shall provide for reimbursement of the cost of outreach, education regarding eligibility and benefits, and translation when such services are provided. The reimbursement may be included in an encounter rate or be made on a fee-for-service basis as appropriate for the provider. When necessary to carry out the terms of this section, the Secretary, acting through the Health Care Financing Administration or the Service, may enter into agreements with a State (or political subdivision thereof) to facilitate cooperation between the State and the Service, an Indian tribe or tribal organization, and an urban Indian organization.

''(d) GRANTS.—

''(1) IN GENERAL.—The Secretary shall make grants or enter into contracts with urban Indian organizations to assist such organizations in establishing and administering programs to assist individual urban Indians to—

''(A) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

''(B) pay premiums on behalf of such individuals for coverage under title XVIII of such Act; and

''(C) apply for medical assistance provided under title XIX of such Act and for child health assistance under title XXI of such Act.

''(2) REQUIREMENTS.—The Secretary shall include in the grants or contracts made or entered into under paragraph (1) requirements that are—

''(A) consistent with the conditions imposed by the Secretary under subsection (b);

''(B) appropriate to urban Indian organizations and urban Indians; and

''(C) necessary to carry out the purposes of this section.

''SEC. 405. DIRECT BILLING AND REIMBURSEMENT OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS.

''(a) ESTABLISHMENT OF DIRECT BILLING PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a program under which Indian tribes, tribal organizations, and Alaska Native health organizations that contract or compact for the operation of a hospital or clinic of the Service under the Indian Self-Determination and Education Assistance Act may elect to directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or from any other third party payor.

''(2) APPLICATION OF 100 PERCENT FMAP.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall apply for purposes of reimbursement under title XIX of the Social Security Act for health care services directly billed under the program established under this section.

''(b) DIRECT REIMBURSEMENT.—

''(1) USE OF FUNDS.—Each hospital or clinic participating in the program described in subsection (a) of this section shall be reimbursed directly under titles XVIII and XIX of the Social Security Act for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) and sections 402(a) and 807(b)(2)(A), but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under title XVIII or XIX of the Social Security Act. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions shall be used—

''(A) solely for improving the health resources deficiency level of the Indian tribe; and

''(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

''(2) AUDITS.—The amounts paid to the hospitals and clinics participating in the program established under this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act.

''(3) SECRETARIAL OVERSIGHT.—The Secretary shall monitor the performance of hospitals and clinics participating in the program established under this section, and shall require such hospitals and clinics to submit reports on the program to the Secretary on an annual basis.

''(4) NO PAYMENTS FROM SPECIAL FUNDS.—Notwithstanding section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) or section 402(a), no payment may be made out of the special funds described in such sections for the benefit of any hospital or clinic during the period that the hospital or clinic participates in the program established under this section.

''(c) REQUIREMENTS FOR PARTICIPATION.—

''(1) APPLICATION.—Except as provided in paragraph (2)(B), in order to be eligible for participation in the program established under this section, an Indian tribe, tribal organization, or Alaska Native health organization shall submit an application to the Secretary that establishes to the satisfaction of the Secretary that—

''(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts or compacts for the operation of a facility of the Service;

''(B) the facility is eligible to participate in the medicare or medicaid programs under section 1880 or 1911 of the Social Security Act (42 U.S.C. 1395qq; 1396j);

''(C) the facility meets the requirements that apply to programs operated directly by the Service; and

''(D) the facility—

''(i) is accredited by an accrediting body as eligible for reimbursement under the medicare or medicaid programs; or

''(ii) has submitted a plan, which has been approved by the Secretary, for achieving such accreditation.

''(2) APPROVAL.—

''(A) IN GENERAL.—The Secretary shall review and approve a qualified application not later than 90 days after the date the application is submitted to the Secretary unless the Secretary determines that any of the criteria set forth in paragraph (1) are not met.

''(B) GRANDFATHER OF DEMONSTRATION PROGRAM PARTICIPANTS.—Any participant in the demonstration program authorized under

this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000 shall be deemed approved for participation in the program established under this section and shall not be required to submit an application in order to participate in the program.

''(C) DURATION.—An approval by the Secretary of a qualified application under subparagraph (A), or a deemed approval of a demonstration program under subparagraph (B), shall continue in effect as long as the approved applicant or the deemed approved demonstration program meets the requirements of this section.

''(d) EXAMINATION AND IMPLEMENTATION OF CHANGES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, and with the assistance of the Administrator of the Health Care Financing Administration, shall examine on an ongoing basis and implement—

''(A) any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this section, including any agreements with States that may be necessary to provide for direct billing under title XIX of the Social Security Act; and

''(B) any changes that may be necessary to enable participants in the program established under this section to provide to the Service medical records information on patients served under the program that is consistent with the medical records information system of the Service.

''(2) ACCOUNTING INFORMATION.—The accounting information that a participant in the program established under this section shall be required to report shall be the same as the information required to be reported by participants in the demonstration program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000. The Secretary may from time to time, after consultation with the program participants, change the accounting information submission requirements.

''(e) WITHDRAWAL FROM PROGRAM.—A participant in the program established under this section may withdraw from participation in the same manner and under the same conditions that a tribe or tribal organization may retrocede a contracted program to the Secretary under authority of the Indian Self-Determination Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this section shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

''SEC. 406. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.

''(a) RIGHT OF RECOVERY.—Except as provided in subsection (g), the United States, an Indian tribe or tribal organization shall have the right to recover the reasonable charges billed or expenses incurred by the Secretary or an Indian tribe or tribal organization in providing health services, through the Service or an Indian tribe or tribal organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if—

''(1) such services had been provided by a nongovernmental provider; and

''(2) such individual had been required to pay such charges or expenses and did pay such expenses.

''(b) URBAN INDIAN ORGANIZATIONS.—Except as provided in subsection (g), an urban Indian organization shall have the right to recover the reasonable charges billed or expenses incurred by the organization in providing health services to any individual to the same extent that such individual, or any other nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if such individual had been required to pay such charges or expenses and did pay such charges or expenses.

''(c) LIMITATIONS ON RECOVERIES FROM STATES.—Subsections (a) and (b) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under—

''(1) workers' compensation laws; or

''(2) a no-fault automobile accident insurance plan or program.

''(d) NONAPPLICATION OF OTHER LAWS.—No law of any State, or of any political subdivision of a State and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States or an Indian tribe or tribal organization under subsection (a), or an urban Indian organization under subsection (b).

''(e) NO EFFECT ON PRIVATE RIGHTS OF ACTION.—No action taken by the United States or an Indian tribe or tribal organization to enforce the right of recovery provided under subsection (a), or by an urban Indian organization to enforce the right of recovery provided under subsection (b), shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

''(f) METHODS OF ENFORCEMENT.—

''(1) IN GENERAL.—The United States or an Indian tribe or tribal organization may enforce the right of recovery provided under subsection (a), and an urban Indian organization may enforce the right of recovery provided under subsection (b), by—

''(A) intervening or joining in any civil action or proceeding brought—

''(i) by the individual for whom health services were provided by the Secretary, an Indian tribe or tribal organization, or urban Indian organization; or

''(ii) by any representative or heirs of such individual; or

''(B) instituting a civil action.

''(2) NOTICE.—All reasonable efforts shall be made to provide notice of an action instituted in accordance with paragraph (1)(B) to the individual to whom health services were provided, either before or during the pendency of such action.

''(g) LIMITATION.—Notwithstanding this section, absent specific written authorization by the governing body of an Indian tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the Service), neither the United States through the Service, nor an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, nor an urban Indian organization funded under title V, shall have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization, or urban Indian organization. Where such tribal authorization is provided, the Service may receive and expend such funds for the provision of additional health services.

''(h) COSTS AND ATTORNEYS' FEES.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded reasonable attorneys' fees and costs of litigation.

''(i) RIGHT OF ACTION AGAINST INSURERS AND EMPLOYEE BENEFIT PLANS.—

''(1) IN GENERAL.—Where an insurance company or employee benefit plan fails or refuses to pay the amount due under subsection (a) for services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the United States or an Indian tribe or tribal organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal, State or tribal law.

''(2) URBAN INDIAN ORGANIZATIONS.—Where an insurance company or employee benefit plan fails or refuses to pay the amounts due under subsection (b) for health services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the urban Indian organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal or State law.

''(j) NONAPPLICATION OF CLAIMS FILING REQUIREMENTS.—Notwithstanding any other provision in law, the Service, an Indian tribe or tribal organization, or an urban Indian organization shall have a right of recovery for any otherwise reimbursable claim filed on a current HCFA–1500 or UB–92 form, or the current NSF electronic format, or their successors. No health plan shall deny payment because a claim has not been submitted in a unique format that differs from such forms.

''SEC. 407. CREDITING OF REIMBURSEMENTS.

''(a) RETENTION OF FUNDS.—Except as provided in section 202(d), this title, and section 807, all reimbursements received or recovered under the authority of this Act, Public Law 87–693, or any other provision of law, by reason of the provision of health services by the Service or by an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization funded under title V, shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

''(b) NO OFFSET OF FUNDS.—The Service may not offset or limit the amount of funds obligated to any service unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

''SEC. 408. PURCHASING HEALTH CARE COVERAGE.

''An Indian tribe or tribal organization, and an urban Indian organization may utilize funding from the Secretary under this Act to purchase managed care coverage for Service beneficiaries (including insurance to limit the financial risks of managed care entities) from—

''(1) a tribally owned and operated managed care plan;

''(2) a State or locally-authorized or licensed managed care plan; or

''(3) a health insurance provider.

''SEC. 409. INDIAN HEALTH SERVICE, DEPARTMENT OF VETERAN'S AFFAIRS, AND OTHER FEDERAL AGENCY HEALTH FACILITIES AND SERVICES SHARING.

''(a) EXAMINATION OF FEASIBILITY OF ARRANGEMENTS.—

''(1) IN GENERAL.—The Secretary shall examine the feasibility of entering into arrangements or expanding existing arrangements for the sharing of medical facilities

and services between the Service and the Veterans' Administration, and other appropriate Federal agencies, including those within the Department, and shall, in accordance with subsection (b), prepare a report on the feasibility of such arrangements.

''(2) SUBMISSION OF REPORT.—Not later than September 30, 2003, the Secretary shall submit the report required under paragraph (1) to Congress.

''(3) CONSULTATION REQUIRED.—The Secretary may not finalize any arrangement described in paragraph (1) without first consulting with the affected Indian tribes.

''(b) LIMITATIONS.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

''(1) the priority access of any Indian to health care services provided through the Service;

''(2) the quality of health care services provided to any Indian through the Service;

''(3) the priority access of any veteran to health care services provided by the Veterans' Administration;

''(4) the quality of health care services provided to any veteran by the Veteran's Administration;

''(5) the eligibility of any Indian to receive health services through the Service; or

''(6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration provided, however, the Service or the Indian tribe or tribal organization shall be reimbursed by the Veterans' Administration where services are provided through the Service or Indian tribes or tribal organizations to beneficiaries eligible for services from the Veterans' Administration, notwithstanding any other provision of law.

''(c) AGREEMENTS FOR PARITY IN SERVICES.—The Service may enter into agreements with other Federal agencies to assist in achieving parity in services for Indians. Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Service.

"SEC. 410. PAYOR OF LAST RESORT.

''The Service, and programs operated by Indian tribes or tribal organizations, or urban Indian organizations shall be the payor of last resort for services provided to individuals eligible for services from the Service and such programs, notwithstanding any Federal, State or local law to the contrary, unless such law explicitly provides otherwise.

"SEC. 411. RIGHT TO RECOVER FROM FEDERAL HEALTH CARE PROGRAMS.

''Notwithstanding any other provision of law, the Service, Indian tribes or tribal organizations, and urban Indian organizations (notwithstanding limitations on who is eligible to receive services from such entities) shall be entitled to receive payment or reimbursement for services provided by such entities from any Federally funded health care program, unless there is an explicit prohibition on such payments in the applicable authorizing statute.

"SEC. 412. TUBA CITY DEMONSTRATION PROJECT.

''(a) IN GENERAL.—Notwithstanding any other provision of law, including the Anti-Deficiency Act, provided the Indian tribes to be served approve, the Service in the Tuba City Service Unit may—

''(1) enter into a demonstration project with the State of Arizona under which the Service would provide certain specified medicaid services to individuals dually eligible for services from the Service and for medical assistance under title XIX of the Social Security Act in return for payment on a capitated basis from the State of Arizona; and

''(2) purchase insurance to limit the financial risks under the project.

''(b) EXTENSION OF PROJECT.—The demonstration project authorized under subsection (a) may be extended to other service units in Arizona, subject to the approval of the Indian tribes to be served in such service units, the Service, and the State of Arizona.

"SEC. 413. ACCESS TO FEDERAL INSURANCE.

''Notwithstanding the provisions of title 5, United States Code, Executive Order, or administrative regulation, an Indian tribe or tribal organization carrying out programs under the Indian Self-Determination and Education Assistance Act or an urban Indian organization carrying out programs under title V of this Act shall be entitled to purchase coverage, rights and benefits for the employees of such Indian tribe or tribal organization, or urban Indian organization, under chapter 89 of title 5, United States Code, and chapter 87 of such title if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with such Indian tribe or tribal organization, or urban Indian organization, are currently deposited in the applicable Employee's Fund under such title.

"SEC. 414. CONSULTATION AND RULEMAKING.

''(a) CONSULTATION.—Prior to the adoption of any policy or regulation by the Health Care Financing Administration, the Secretary shall require the Administrator of that Administration to—

''(1) identify the impact such policy or regulation may have on the Service, Indian tribes or tribal organizations, and urban Indian organizations;

''(2) provide to the Service, Indian tribes or tribal organizations, and urban Indian organizations the information described in paragraph (1);

''(3) engage in consultation, consistent with the requirements of Executive Order 13084 of May 14, 1998, with the Service, Indian tribes or tribal organizations, and urban Indian organizations prior to enacting any such policy or regulation.

''(b) RULEMAKING.—The Administrator of the Health Care Financing Administration shall participate in the negotiated rulemaking provided for under title VIII with regard to any regulations necessary to implement the provisions of this title that relate to the Social Security Act.

"SEC. 415. LIMITATIONS ON CHARGES.

''No provider of health services that is eligible to receive payments or reimbursements under titles XVIII, XIX, or XXI of the Social Security Act or from any Federally funded (whether in whole or part) health care program may seek to recover payment for services—

''(1) that are covered under and furnished to an individual eligible for the contract health services program operated by the Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization, in an amount in excess of the lowest amount paid by any other payor for comparable services; or

''(2) for examinations or other diagnostic procedures that are not medically necessary if such procedures have already been performed by the referring Indian health program and reported to the provider.

"SEC. 416. LIMITATION ON SECRETARY'S WAIVER AUTHORITY.

''Notwithstanding any other provision of law, the Secretary may not waive the application of section 1902(a)(13)(D) of the Social Security Act to any State plan under title XIX of the Social Security Act.

"SEC. 417. WAIVER OF MEDICARE AND MEDICAID SANCTIONS.

''Notwithstanding any other provision of law, the Service or an Indian tribe or tribal organization or an urban Indian organization operating a health program under the Indian Self-Determination and Education Assistance Act shall be entitled to seek a waiver of sanctions imposed under title XVIII, XIX, or XXI of the Social Security Act as if such entity were directly responsible for administering the State health care program.

"SEC. 418. MEANING OF 'REMUNERATION' FOR PURPOSES OF SAFE HARBOR PROVISIONS; ANTITRUST IMMUNITY.

''(a) MEANING OF REMUNERATION.—Notwithstanding any other provision of law, the term 'remuneration' as used in sections 1128A and 1128B of the Social Security Act shall not include any exchange of anything of value between or among—

''(1) any Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act;

''(2) any such Indian tribe or tribal organization or urban Indian organization and the Service;

''(3) any such Indian tribe or tribal organization or urban Indian organization and any patient served or eligible for service under such programs, including patients served or eligible for service pursuant to section 813 of this Act (as in effect on the day before the date of enactment of the Indian Health Care Improvement Act Reauthorization of 2003); or

''(4) any such Indian tribe or tribal organization or urban Indian organization and any third party required by contract, section 206 or 207 of this Act (as so in effect), or other applicable law, to pay or reimburse the reasonable health care costs incurred by the United States or any such Indian tribe or tribal organization or urban Indian organization;

provided the exchange arises from or relates to such health programs.

''(b) ANTITRUST IMMUNITY.—An Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act or title V shall be deemed to be an agency of the United States and immune from liability under the Acts commonly known as the Sherman Act, the Clayton Act, the Robinson-Patman Anti-Discrimination Act, the Federal Trade Commission Act, and any other Federal, State, or local antitrust laws, with regard to any transaction, agreement, or conduct that relates to such programs.

"SEC. 419. CO-INSURANCE, CO-PAYMENTS, DEDUCTIBLES AND PREMIUMS.

''(a) EXEMPTION FROM COST-SHARING REQUIREMENTS.—Notwithstanding any other provision of Federal or State law, no Indian who is eligible for services under title XVIII, XIX, or XXI of the Social Security Act, or under any other Federally funded health care programs, may be charged a deductible, co-payment, or co-insurance for any service provided by or through the Service, an Indian tribe or tribal organization or urban Indian organization, nor may the payment or reimbursement due to the Service or an Indian tribe or tribal organization or urban Indian organization be reduced by the amount of the deductible, co-payment, or co-insurance that would be due from the Indian but for the operation of this section. For the purposes of this section, the term 'through' shall include services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian tribe or tribal organization or an urban Indian organization and another health provider.

''(b) EXEMPTION FROM PREMIUMS.—

''(1) MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAM.—Notwithstanding any other provision of Federal or State law, no Indian who is otherwise eligible for medical assistance under title XIX of the Social Security Act or child health assistance under title XXI of such Act may be charged a premium as a condition of receiving such assistance under title XIX of XXI of such Act.

''(2) MEDICARE ENROLLMENT PREMIUM PENALTIES.—Notwithstanding section 1839(b) of the Social Security Act or any other provision of Federal or State law, no Indian who is eligible for benefits under part B of title XVIII of the Social Security Act, but for the payment of premiums, shall be charged a penalty for enrolling in such part at a time later than the Indian might otherwise have been first eligible to do so. The preceding sentence applies whether an Indian pays for premiums under such part directly or such premiums are paid by another person or entity, including a State, the Service, an Indian Tribe or tribal organization, or an urban Indian organization.

''SEC. 420. INCLUSION OF INCOME AND RESOURCES FOR PURPOSES OF MEDICALLY NEEDY MEDICAID ELIGIBILITY.

''For the purpose of determining the eligibility under section 1902(a)(10)(A)(ii)(IV) of the Social Security Act of an Indian for medical assistance under a State plan under title XIX of such Act, the cost of providing services to an Indian in a health program of the Service, an Indian Tribe or tribal organization, or an urban Indian organization shall be deemed to have been an expenditure for health care by the Indian.

''SEC. 421. ESTATE RECOVERY PROVISIONS.

''Notwithstanding any other provision of Federal or State law, the following property may not be included when determining eligibility for services or implementing estate recovery rights under title XVIII, XIX, or XXI of the Social Security Act, or any other health care programs funded in whole or part with Federal funds:

''(1) Income derived from rents, leases, or royalties of property held in trust for individuals by the Federal Government.

''(2) Income derived from rents, leases, royalties, or natural resources (including timber and fishing activities) resulting from the exercise of Federally protected rights, whether collected by an individual or a tribal group and distributed to individuals.

''(3) Property, including interests in real property currently or formerly held in trust by the Federal Government which is protected under applicable Federal, State or tribal law or custom from recourse, including public domain allotments.

''(4) Property that has unique religious or cultural significance or that supports subsistence or traditional life style according to applicable tribal law or custom.

''SEC. 422. MEDICAL CHILD SUPPORT.

''Notwithstanding any other provision of law, a parent shall not be responsible for reimbursing the Federal Government or a State for the cost of medical services provided to a child by or through the Service, an Indian tribe or tribal organization or an urban Indian organization. For the purposes of this subsection, the term 'through' includes services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian Tribe or tribal organization or an urban Indian organization and another health provider.

''SEC. 423. PROVISIONS RELATING TO MANAGED CARE.

''(a) RECOVERY FROM MANAGED CARE PLANS.—Notwithstanding any other provision in law, the Service, an Indian Tribe or tribal organization or an urban Indian organization shall have a right of recovery under section 408 from all private and public health plans or programs, including the medicare, medicaid, and State children's health insurance programs under titles XVIII, XIX, and XXI of the Social Security Act, for the reasonable costs of delivering health services to Indians entitled to receive services from the Service, an Indian Tribe or tribal organization or an urban Indian organization.

''(b) LIMITATION.—No provision of law or regulation, or of any contract, may be relied upon or interpreted to deny or reduce payments otherwise due under subsection (a), except to the extent the Service, an Indian tribe or tribal organization, or an urban Indian organization has entered into an agreement with a managed care entity regarding services to be provided to Indians or rates to be paid for such services, provided that such an agreement may not be made a prerequisite for such payments to be made.

''(c) PARITY.—Payments due under subsection (a) from a managed care entity may not be paid at a rate that is less than the rate paid to a 'preferred provider' by the entity or, in the event there is no such rate, the usual and customary fee for equivalent services.

''(d) NO CLAIM REQUIREMENT.—A managed care entity may not deny payment under subsection (a) because an enrollee with the entity has not submitted a claim.

''(e) DIRECT BILLING.—Notwithstanding the preceding subsections of this section, the Service, an Indian tribe or tribal organization, or an urban Indian organization that provides a health service to an Indian entitled to medical assistance under the State plan under title XIX of the Social Security Act or enrolled in a child health plan under title XXI of such Act shall have the right to be paid directly by the State agency administering such plans notwithstanding any agreements the State may have entered into with managed care organizations or providers.

''(f) REQUIREMENT FOR MEDICAID MANAGED CARE ENTITIES.—A managed care entity (as defined in section 1932(a)(1)(B) of the Social Security Act shall, as a condition of participation in the State plan under title XIX of such Act, offer a contract to health programs administered by the Service, an Indian tribe or tribal organization or an urban Indian organization that provides health services in the geographic area served by the managed care entity and such contract (or other provider participation agreement) shall contain terms and conditions of participation and payment no more restrictive or onerous than those provided for in this section.

''(g) PROHIBITION.—Notwithstanding any other provision of law or any waiver granted by the Secretary no Indian may be assigned automatically or by default under any managed care entity participating in a State plan under title XIX or XXI of the Social Security Act unless the Indian had the option of enrolling in a managed care plan or health program administered by the Service, an Indian tribe or tribal organization, or an urban Indian organization.

''(h) INDIAN MANAGED CARE PLANS.—Notwithstanding any other provision of law, any State entering into agreements with one or more managed care organizations to provide services under title XIX or XXI of the Social Security Act shall enter into such an agreement with the Service, an Indian tribe or tribal organization or an urban Indian organization under which such an entity may provide services to Indians who may be eligible or required to enroll with a managed care organization through enrollment in an Indian managed care organization that provides services similar to those offered by other managed care organizations in the State. The Secretary and the State are hereby authorized to waive requirements regarding discrimination, capitalization, and other matters that might otherwise prevent an Indian managed care organization or health program from meeting Federal or State standards applicable to such organizations, provided such Indian managed care organization or health program offers Indian enrollees services of an equivalent quality to that required of other managed care organizations.

''(i) ADVERTISING.—A managed care organization entering into a contract to provide services to Indians on or near an Indian reservation shall provide a certificate of coverage or similar type of document that is written in the Indian language of the majority of the Indian population residing on such reservation.

''SEC. 424. NAVAJO NATION MEDICAID AGENCY.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may treat the Navajo Nation as a State under title XIX of the Social Security Act for purposes of providing medical assistance to Indians living within the boundaries of the Navajo Nation.

''(b) ASSIGNMENT AND PAYMENT.—Notwithstanding any other provision of law, the Secretary may assign and pay all expenditures related to the provision of services to Indians living within the boundaries of the Navajo Nation under title XIX of the Social Security Act (including administrative expenditures) that are currently paid to or would otherwise be paid to the States of Arizona, New Mexico, and Utah, to an entity established by the Navajo Nation and approved by the Secretary, which shall be denominated the Navajo Nation Medicaid Agency.

''(c) AUTHORITY.—The Navajo Nation Medicaid Agency shall serve Indians living within the boundaries of the Navajo Nation and shall have the same authority and perform the same functions as other State agency responsible for the administration of the State plan under title XIX of the Social Security Act.

''(d) TECHNICAL ASSISTANCE.—The Secretary may directly assist the Navajo Nation in the development and implementation of a Navajo Nation Medicaid Agency for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act (which shall, for purposes of reimbursement to such Nation, include Western and traditional Navajo healing services) within the Navajo Nation. Such assistance may include providing funds for demonstration projects conducted with such Nation.

''(e) FMAP.—Notwithstanding section 1905(b) of the Social Security Act, the Federal medical assistance percentage shall be 100 per cent with respect to amounts the Navajo Nation Medicaid agency expends for medical assistance and related administrative costs.

''(f) WAIVER AUTHORITY.—The Secretary shall have the authority to waive applicable provisions of Title XIX of the Social Security Act to establish, develop and implement the Navajo Nation Medicaid Agency.

''(g) SCHIP.—At the option of the Navajo Nation, the Secretary may treat the Navajo Nation as a State for purposes of title XXI of the Social Security Act under terms equivalent to those described in the preceding subsections of this section.

''SEC. 425. INDIAN ADVISORY COMMITTEES.

''(a) NATIONAL INDIAN TECHNICAL ADVISORY GROUP.—The Administrator of the Health Care Financing Administration shall establish and fund the expenses of a National Indian Technical Advisory Group which shall

have no fewer than 14 members, including at least 1 member designated by the Indian tribes and tribal organizations in each service area, 1 urban Indian organization representative, and 1 member representing the Service. The scope of the activities of such group shall be established under section 802 provided that such scope shall include providing comment on and advice regarding the programs funded under titles XVIII, XIX, and XXI of the Social Security Act or regarding any other health care program funded (in whole or part) by the Health Care Financing Administration.

''(b) INDIAN MEDICAID ADVISORY COMMITTEES.—The Administrator of the Health Care Financing Administration shall establish and provide funding for a Indian Medicaid Advisory Committee made up of designees of the Service, Indian tribes and tribal organizations and urban Indian organizations in each State in which the Service directly operates a health program or in which there is one or more Indian tribe or tribal organization or urban Indian organization.

''SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 through 2015 to carry out this title.''.

''TITLE V—HEALTH SERVICES FOR URBAN INDIANS

''SEC. 501. PURPOSE.

''The purpose of this title is to establish programs in urban centers to make health services more accessible and available to urban Indians.

''SEC. 502. CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS.

''Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within urban centers, of programs which meet the requirements set forth in this title. The Secretary, through the Service, subject to section 506, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this title.

''SEC. 503. CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.

''(a) AUTHORITY.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall enter into contracts with, and make grants to, urban Indian organizations for the provision of health care and referral services for urban Indians. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to—

''(1) estimate the population of urban Indians residing in the urban center or centers that the organization proposes to serve who are or could be recipients of health care or referral services;

''(2) estimate the current health status of urban Indians residing in such urban center or centers;

''(3) estimate the current health care needs of urban Indians residing in such urban center or centers;

''(4) provide basic health education, including health promotion and disease prevention education, to urban Indians;

''(5) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

''(6) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

''(b) CRITERIA.—The Secretary, acting through the Service, shall by regulation adopted pursuant to section 520 prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

''(1) the extent of unmet health care needs of urban Indians in the urban center or centers involved;

''(2) the size of the urban Indian population in the urban center or centers involved;

''(3) the extent, if any, to which the activities set forth in subsection (a) would duplicate any project funded under this title;

''(4) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

''(5) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

''(6) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center or centers; and

''(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

''(c) HEALTH PROMOTION AND DISEASE PREVENTION.—The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

''(d) IMMUNIZATION SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

''(2) DEFINITION.—In this section, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

''(e) MENTAL HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

''(2) ASSESSMENT.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

''(3) USE OF FUNDS.—Grants may be made under this subsection—

''(A) to prepare assessments required under paragraph (2);

''(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct behavioral health services, to educate urban Indians about behavioral health issues and services, and effect coordination with existing behavioral health providers in order to improve services to urban Indians;

''(C) to provide outpatient behavioral health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

''(D) to develop innovative behavioral health service delivery models which incorporate Indian cultural support systems and resources.

''(f) CHILD ABUSE.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among urban Indians.

''(2) ASSESSMENT.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

''(3) USE OF FUNDS.—Grants may be made under this subsection—

''(A) to prepare assessments required under paragraph (2);

''(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

''(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

''(4) CONSIDERATIONS.—In making grants to carry out this subsection, the Secretary shall take into consideration—

''(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

''(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

''(C) the assessment required under paragraph (2).

''(g) MULTIPLE URBAN CENTERS.—The Secretary, acting through the Service, may enter into a contract with, or make grants to, an urban Indian organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to urban Indians in more than one urban center.

''SEC. 504. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.

''(a) AUTHORITY.—

''(1) IN GENERAL.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been

entered into, or grants have not been made, under section 503.

''(2) PURPOSE.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.

''(b) REQUIREMENTS.—Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

''(1) the urban Indian organization successfully undertake to—

''(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

''(B) with respect to urban Indians in the urban center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 503(b); and

''(2) the urban Indian organization complete performance of the contract, or carry out the requirements of the grant, within 1 year after the date on which the Secretary and such organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

''(c) LIMITATION ON RENEWAL.—The Secretary may not renew any contract entered into, or grant made, under this section.

''SEC. 505. EVALUATIONS; RENEWALS.

''(a) PROCEDURES.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements under this title and compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

''(b) COMPLIANCE WITH TERMS.—The Secretary, acting through the Service, shall evaluate the compliance of each urban Indian organization which has entered into a contract or received a grant under section 503 with the terms of such contract or grant. For purposes of an evaluation under this subsection, the Secretary, in determining the capacity of an urban Indian organization to deliver quality patient care shall, at the option of the organization—

''(1) conduct, through the Service, an annual onsite evaluation of the organization; or

''(2) accept, in lieu of an onsite evaluation, evidence of the organization's provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the medicare program under Title XVIII of the Social Security Act.

''(c) NONCOMPLIANCE.—

''(1) IN GENERAL.—If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract or grant to prevent future occurrences of such noncompliance or unsatisfactory performance.

''(2) NONRENEWAL.—If the Secretary determines, under an evaluation under this section, that noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract or grant with such organization and is authorized to enter into a contract or make a grant under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract or grant is not renewed under this section.

''(d) DETERMINATION OF RENEWAL.—In determining whether to renew a contract or grant with an urban Indian organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract or grant under section 503, shall consider the results of the onsite evaluations or accreditation under subsection (b).

''SEC. 506. OTHER CONTRACT AND GRANT REQUIREMENTS.

''(a) APPLICATION OF FEDERAL LAW.—Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations relating to procurement except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

''(b) PAYMENTS.—Payments under any contracts or grants pursuant to this title shall, notwithstanding any term or condition of such contract or grant—

''(1) be made in their entirety by the Secretary to the urban Indian organization by not later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such payments in their entirety; and

''(2) if unexpended by the urban Indian organization during the funding period with respect to which the payments initially apply, be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during 1 or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the expenditure of such funds.

''(c) REVISING OR AMENDING CONTRACT.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

''(d) FAIR AND UNIFORM PROVISION OF SERVICES.—Contracts with, or grants to, urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations.

''(e) ELIGIBILITY OF URBAN INDIANS.—Urban Indians, as defined in section 4(f), shall be eligible for health care or referral services provided pursuant to this title.

''SEC. 507. REPORTS AND RECORDS.

''(a) REPORT.—For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into, or a grant received, pursuant to this title, such organization shall submit to the Secretary, on a basis no more frequent than every 6 months, a report including—

''(1) in the case of a contract or grant under section 503, information gathered pursuant to paragraph (5) of subsection (a) of such section;

''(2) information on activities conducted by the organization pursuant to the contract or grant;

''(3) an accounting of the amounts and purposes for which Federal funds were expended; and

''(4) a minimum set of data, using uniformly defined elements, that is specified by the Secretary, after consultations consistent with section 514, with urban Indian organizations.

''(b) AUDITS.—The reports and records of the urban Indian organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

''(c) COST OF AUDIT.—The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial audit conducted by—

''(1) a certified public accountant; or

''(2) a certified public accounting firm qualified to conduct Federal compliance audits.

''SEC. 508. LIMITATION ON CONTRACT AUTHORITY.

''The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

''SEC. 509. FACILITIES.

''(a) GRANTS.—The Secretary may make grants to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order to assist such contractors or grant recipients in complying with applicable licensure or certification requirements.

''(b) LOANS OR LOAN GUARANTEES.—The Secretary, acting through the Service or through the Health Resources and Services Administration, may provide loans to contractors or grant recipients under this title from the Urban Indian Health Care Facilities Revolving Loan Fund (referred to in this section as the 'URLF') described in subsection (c), or guarantees for loans, for the construction, renovation, expansion, or purchase of health care facilities, subject to the following requirements:

''(1) The principal amount of a loan or loan guarantee may cover 100 percent of the costs (other than staffing) relating to the facility, including planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, medical equipment, furnishings, and capital purchase.

''(2) The total amount of the principal of loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriations Acts.

''(3) The loan or loan guarantee may have a term of the shorter of the estimated useful life of the facility, or 25 years.

''(4) An urban Indian organization may assign, and the Secretary may accept assignment of, the revenue of the organization as security for a loan or loan guarantee under this subsection.

''(5) The Secretary shall not collect application, processing, or similar fees from urban Indian organizations applying for loans or loan guarantees under this subsection.

''(c) URBAN INDIAN HEALTH CARE FACILITIES REVOLVING LOAN FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Urban Indian Health Care Facilities Revolving Loan Fund. The URLF shall consist of—

''(A) such amounts as may be appropriated to the URLF;

''(B) amounts received from urban Indian organizations in repayment of loans made to such organizations under paragraph (2); and

''(C) interest earned on amounts in the URLF under paragraph (3).

''(2) USE OF URLF.—Amounts in the URLF may be expended by the Secretary, acting through the Service or the Health Resources and Services Administration, to make loans available to urban Indian organizations receiving grants or contracts under this title for the purposes, and subject to the requirements, described in subsection (b). Amounts appropriated to the URLF, amounts received from urban Indian organizations in repayment of loans, and interest on amounts in the URLF shall remain available until expended.

''(3) INVESTMENTS.—The Secretary of the Treasury shall invest such amounts of the URLF as such Secretary determines are not required to meet current withdrawals from the URLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the URLF may be sold by the Secretary of the Treasury at the market price.

''SEC. 510. OFFICE OF URBAN INDIAN HEALTH.

''There is hereby established within the Service an Office of Urban Indian Health which shall be responsible for—

''(1) carrying out the provisions of this title;

''(2) providing central oversight of the programs and services authorized under this title; and

''(3) providing technical assistance to urban Indian organizations.

''SEC. 511. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES.

''(a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201.

''(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

''(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

''(1) size of the urban Indian population;

''(2) capability of the organization to adequately perform the activities required under the grant;

''(3) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

''(4) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

''(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

''SEC. 512. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

''(a) TULSA AND OKLAHOMA CITY CLINICS.—Notwithstanding any other provision of law, the Tulsa and Oklahoma City Clinic demonstration projects shall become permanent programs within the Service's direct care program and continue to be treated as service units in the allocation of resources and coordination of care, and shall continue to meet the requirements and definitions of an urban Indian organization in this title, and as such will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act.

''(b) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a).

''SEC. 513. URBAN NIAAA TRANSFERRED PROGRAMS.

''(a) GRANTS AND CONTRACTS.—The Secretary, acting through the Office of Urban Indian Health of the Service, shall make grants or enter into contracts, effective not later than September 30, 2004, with urban Indian organizations for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (referred to in this section to as 'NIAAA') and transferred to the Service.

''(b) USE OF FUNDS.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

''(c) ELIGIBILITY.—Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

''(d) EVALUATION AND REPORT.—The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every 5 years.

''SEC. 514. CONSULTATION WITH URBAN INDIAN ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary shall ensure that the Service, the Health Care Financing Administration, and other operating divisions and staff divisions of the Department consult, to the maximum extent practicable, with urban Indian organizations (as defined in section 4) prior to taking any action, or approving Federal financial assistance for any action of a State, that may affect urban Indians or urban Indian organizations.

''(b) REQUIREMENT.—In subsection (a), the term 'consultation' means the open and free exchange of information and opinion among urban Indian organizations and the operating and staff divisions of the Department which leads to mutual understanding and comprehension and which emphasizes trust, respect, and shared responsibility.

''SEC. 515. FEDERAL TORT CLAIMS ACT COVERAGE.

''For purposes of section 224 of the Public Health Service Act (42 U.S.C. 233), with respect to claims by any person, initially filed on or after October 1, 1999, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations, for personal injury (including death) resulting from the performance prior to, including, or after October 1, 1999, of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, or for purposes of section 2679 of title 28, United States Code, with respect to claims by any such person, on or after October 1, 1999, for personal injury (including death) resulting from the operation of an emergency motor vehicle, an urban Indian organization that has entered into a contract or received a grant pursuant to this title is deemed to be part of the Public Health Service while carrying out any such contract or grant and its employees (including those acting on behalf of the organization as provided for in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with an urban Indian organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or grant, except that such employees shall be deemed to be acting within the scope of their employment in carrying out the contract or grant when they are required, by reason of their employment, to perform medical, surgical, dental or related functions at a facility other than a facility operated by the urban Indian organization pursuant to such contract or grant, but only if such employees are not compensated for the performance of such functions by a person or entity other than the urban Indian organization.

''SEC. 516. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.

''(a) CONSTRUCTION AND OPERATION.—The Secretary, acting through the Service, shall, through grants or contracts, make payment for the construction and operation of at least 2 residential treatment centers in each State described in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to urban Indian youth in a culturally competent residential setting.

''(b) STATES.—A State described in this subsection is a State in which—

''(1) there reside urban Indian youth with a need for alcohol and substance abuse treatment services in a residential setting; and

''(2) there is a significant shortage of culturally competent residential treatment services for urban Indian youth.

''SEC. 517. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

''(a) IN GENERAL.—The Secretary shall permit an urban Indian organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

''(b) DONATION OF PROPERTY.—Subject to subsection (d), the Secretary may donate to an urban Indian organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined to be excess to the needs of the Service or the General Services Administration for purposes of carrying out the contract or grant.

''(c) ACQUISITION OF PROPERTY.—The Secretary may acquire excess or surplus government personal or real property for donation, subject to subsection (d), to an urban Indian organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the urban Indian organization for a purpose for which a contract or grant is authorized under this title.

''(d) PRIORITY.—In the event that the Secretary receives a request for a specific item of personal or real property described in subsections (b) or (c) from an urban Indian organization and from an Indian tribe or tribal

organization, the Secretary shall give priority to the request for donation to the Indian tribe or tribal organization if the Secretary receives the request from the Indian tribe or tribal organization before the date on which the Secretary transfers title to the property or, if earlier, the date on which the Secretary transfers the property physically, to the urban Indian organization.

''(e) RELATION TO FEDERAL SOURCES OF SUPPLY.—For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines, and other transportation providers), an urban Indian organization that has entered into a contract or received a grant pursuant to this title shall be deemed an executive agency when carrying out such contract or grant, and the employees of the urban Indian organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

''SEC. 518. GRANTS FOR DIABETES PREVENTION, TREATMENT AND CONTROL.

''(a) AUTHORITY.—The Secretary may make grants to those urban Indian organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention, treatment, and control of the complications resulting from, diabetes among urban Indians.

''(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed upon between the Secretary and the grantee.

''(c) CRITERIA.—The Secretary shall establish criteria for the awarding of grants made under subsection (a) relating to—

''(1) the size and location of the urban Indian population to be served;

''(2) the need for the prevention of, treatment of, and control of the complications resulting from diabetes among the urban Indian population to be served;

''(3) performance standards for the urban Indian organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee;

''(4) the capability of the urban Indian organization to adequately perform the activities required under the grant; and

''(5) the willingness of the urban Indian organization to collaborate with the registry, if any, established by the Secretary under section 204(e) in the area office of the Service in which the organization is located.

''(d) APPLICATION OF CRITERIA.—Any funds received by an urban Indian organization under this Act for the prevention, treatment, and control of diabetes among urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).

''SEC. 519. COMMUNITY HEALTH REPRESENTATIVES.

''The Secretary, acting through the Service, may enter into contracts with, and make grants to, urban Indian organizations for the use of Indians trained as health service providers through the Community Health Representatives Program under section 107(b) in the provision of health care, health promotion, and disease prevention services to urban Indians.

''SEC. 520. REGULATIONS.

''(a) EFFECT OF TITLE.—This title shall be effective on the date of enactment of this Act regardless of whether the Secretary has promulgated regulations implementing this title.

''(b) PROMULGATION.—

''(1) IN GENERAL.—The Secretary may promulgate regulations to implement the provisions of this title.

''(2) PUBLICATION.—Proposed regulations to implement this title shall be published by the Secretary in the Federal Register not later than 270 days after the date of enactment of this Act and shall have a comment period of not less than 120 days.

''(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this title shall expire on the date that is 18 months after the date of enactment of this Act.

''(c) NEGOTIATED RULEMAKING COMMITTEE.—A negotiated rulemaking committee shall be established pursuant to section 565 of title 5, United States Code, to carry out this section and shall, in addition to Federal representatives, have as the majority of its members representatives of urban Indian organizations from each service area.

''(d) ADAPTION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of this Act.

''SEC. 521. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE VI—ORGANIZATIONAL IMPROVEMENTS

''SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

''(2) ASSISTANT SECRETARY OF INDIAN HEALTH.—The Service shall be administered by an Assistance Secretary of Indian Health, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Assistant Secretary shall be 4 years. An Assistant Secretary may serve more than 1 term.

''(b) AGENCY.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

''(c) FUNCTIONS AND DUTIES.—The Secretary shall carry out through the Assistant Secretary of the Service—

''(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Service on such day;

''(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

''(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

''(A) this Act;

''(B) the Act of November 2, 1921 (25 U.S.C. 13);

''(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

''(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

''(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.); and

''(4) all scholarship and loan functions carried out under title I.

''(d) AUTHORITY.—

''(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary, shall have the authority—

''(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

''(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

''(C) to manage, expend, and obligate all funds appropriated for the Service.

''(2) PERSONNEL ACTIONS.—Notwithstanding any other provision of law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

''SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, in consultation with tribes, tribal organizations, and urban Indian organizations, shall establish an automated management information system for the Service.

''(2) REQUIREMENTS OF SYSTEM.—The information system established under paragraph (1) shall include—

''(A) a financial management system;

''(B) a patient care information system;

''(C) a privacy component that protects the privacy of patient information;

''(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service;

''(E) an interface mechanism for patient billing and accounts receivable system; and

''(F) a training component.

''(b) PROVISION OF SYSTEMS TO TRIBES AND ORGANIZATIONS.—The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which—

''(1) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service; and

''(2) meet the management information needs of the Service.

''(c) ACCESS TO RECORDS.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

''(d) AUTHORITY TO ENHANCE INFORMATION TECHNOLOGY.—The Secretary, acting through the Assistant Secretary, shall have the authority to enter into contracts, agreements or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian health programs and facilities.

''SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE VII—BEHAVIORAL HEALTH PROGRAMS

''SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.

''(a) PURPOSES.—It is the purpose of this section to—

''(1) authorize and direct the Secretary, acting through the Service, Indian tribes,

tribal organizations, and urban Indian organizations to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs;

''(2) provide information, direction and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement and judicial services;

''(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

''(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based programs which include identification, prevention, education, referral, and treatment services, including through multi-disciplinary resource teams;

''(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access; and

''(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).

''(b) BEHAVIORAL HEALTH PLANNING.—

''(1) AREA-WIDE PLANS.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations, shall encourage Indian tribes and tribal organizations to develop tribal plans, encourage urban Indian organizations to develop local plans, and encourage all such groups to participate in developing area-wide plans for Indian Behavioral Health Services. The plans shall, to the extent feasible, include—

''(A) an assessment of the scope of the problem of alcohol or other substance abuse, mental illness, dysfunctional and self-destructive behavior, including suicide, child abuse and family violence, among Indians, including—

''(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; and

''(ii) an estimate of the financial and human cost attributable to such illness or behavior;

''(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c); and

''(C) an estimate of the additional funding needed by the Service, Indian tribes, tribal organizations and urban Indian organizations to meet their responsibilities under the plans.

''(2) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse of plans and reports on the outcomes of such plans developed under this section by Indian tribes, tribal organizations and by areas relating to behavioral health. The Secretary shall ensure access to such plans and outcomes by any Indian tribe, tribal organization, urban Indian organization or the Service.

''(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Indian tribes, tribal organizations, and urban Indian organizations in preparation of plans under this section and in developing standards of care that may be utilized and adopted locally.

''(c) CONTINUUM OF CARE.—The Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, to the extent feasible and to the extent that funding is available, for the implementation of programs including—

''(1) a comprehensive continuum of behavioral health care that provides for—

''(A) community based prevention, intervention, outpatient and behavioral health aftercare;

''(B) detoxification (social and medical);

''(C) acute hospitalization;

''(D) intensive outpatient or day treatment;

''(E) residential treatment;

''(F) transitional living for those needing a temporary stable living environment that is supportive of treatment or recovery goals;

''(G) emergency shelter;

''(H) intensive case management;

''(I) traditional health care practices; and

''(J) diagnostic services, including the utilization of neurological assessment technology; and

''(2) behavioral health services for particular populations, including—

''(A) for persons from birth through age 17, child behavioral health services, that include—

''(i) pre-school and school age fetal alcohol disorder services, including assessment and behavioral intervention);

''(ii) mental health or substance abuse services (emotional, organic, alcohol, drug, inhalant and tobacco);

''(iii) services for co-occurring disorders (multiple diagnosis);

''(iv) prevention services that are focused on individuals ages 5 years through 10 years (alcohol, drug, inhalant and tobacco);

''(v) early intervention, treatment and aftercare services that are focused on individuals ages 11 years through 17 years;

''(vi) healthy choices or life style services (related to STD's, domestic violence, sexual abuse, suicide, teen pregnancy, obesity, and other risk or safety issues);

''(vii) co-morbidity services;

''(B) for persons ages 18 years through 55 years, adult behavioral health services that include—

''(i) early intervention, treatment and aftercare services;

''(ii) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

''(iii) services for co-occurring disorders (dual diagnosis) and co-morbidity;

''(iv) healthy choices and life style services (related to parenting, partners, domestic violence, sexual abuse, suicide, obesity, and other risk related behavior);

''(v) female specific treatment services for—

''(I) women at risk of giving birth to a child with a fetal alcohol disorder;

''(II) substance abuse requiring gender specific services;

''(III) sexual assault and domestic violence; and

''(IV) healthy choices and life style (parenting, partners, obesity, suicide and other related behavioral risk); and

''(vi) male specific treatment services for—

''(I) substance abuse requiring gender specific services;

''(II) sexual assault and domestic violence; and

''(III) healthy choices and life style (parenting, partners, obesity, suicide and other risk related behavior);

''(C) family behavioral health services, including—

''(i) early intervention, treatment and aftercare for affected families;

''(ii) treatment for sexual assault and domestic violence; and

''(iii) healthy choices and life style (related to parenting, partners, domestic violence and other abuse issues);

''(D) for persons age 56 years and older, elder behavioral health services including—

''(i) early intervention, treatment and aftercare services that include—

''(I) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

''(II) services for co-occurring disorders (dual diagnosis) and co-morbidity; and

''(III) healthy choices and life style services (managing conditions related to aging);

''(ii) elder women specific services that include—

''(I) treatment for substance abuse requiring gender specific services and

''(II) treatment for sexual assault, domestic violence and neglect;

''(iii) elder men specific services that include—

''(I) treatment for substance abuse requiring gender specific services; and

''(II) treatment for sexual assault, domestic violence and neglect; and

''(iv) services for dementia regardless of cause.

''(d) COMMUNITY BEHAVIORAL HEALTH PLAN.—

''(1) IN GENERAL.—The governing body of any Indian tribe or tribal organization or urban Indian organization may, at its discretion, adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat alcohol and other substance abuse, mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members or its service population. Such plan should include behavioral health services, social services, intensive outpatient services, and continuing after care.

''(2) TECHNICAL ASSISTANCE.—In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the Indian tribe or tribal organization in the development of a plan under paragraph (1). Upon the establishment of such a plan and at the request of the Indian tribe or tribal organization, such officials shall cooperate with the Indian tribe or tribal organization in the implementation of such plan.

''(3) FUNDING.—The Secretary, acting through the Service, may make funding available to Indian tribes and tribal organizations adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

''(e) COORDINATED PLANNING.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall coordinate behavioral health planning, to the extent feasible, with other Federal and State agencies, to ensure that comprehensive behavioral health services are available to Indians without regard to their place of residence.

''(f) FACILITIES ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service

hospital beds into psychiatric units to meet such need.

"SEC. 702. MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement, or review and update any existing memoranda of agreement as required under section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411), and under which the Secretaries address—

''(1) the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

''(2) the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

''(3) the unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1);

''(4)(A) the right of Indians, as citizens of the United States and of the States in which they reside, to have access to mental health services to which all citizens have access;

''(B) the right of Indians to participate in, and receive the benefit of, such services; and

''(C) the actions necessary to protect the exercise of such right;

''(5) the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

''(6) a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including—

''(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various Indian tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with the mental health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

''(B) ensuring that Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

''(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412); and

''(8) provide for an annual review of such agreement by the 2 Secretaries and a report which shall be submitted to Congress and made available to the Indian tribes.

''(b) SPECIFIC PROVISIONS.—The memorandum of agreement updated or entered into pursuant to subsection (a) shall include specific provisions pursuant to which the Service shall assume responsibility for—

''(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

''(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

''(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

''(c) CONSULTATION.—The Secretary and the Secretary of the Interior shall, in developing the memorandum of agreement under subsection (a), consult with and solicit the comments of—

''(1) Indian tribes and tribal organizations;

''(2) Indian individuals;

''(3) urban Indian organizations and other Indian organizations;

''(4) behavioral health service providers.

''(d) PUBLICATION.—The memorandum of agreement under subsection (a) shall be published in the Federal Register. At the same time as the publication of such agreement in the Federal Register, the Secretary shall provide a copy of such memorandum to each Indian tribe, tribal organization, and urban Indian organization.

"SEC. 703. COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian tribes and tribal organizations consistent with section 701, shall provide a program of comprehensive behavioral health prevention and treatment and aftercare, including systems of care and traditional health care practices, which shall include—

''(A) prevention, through educational intervention, in Indian communities;

''(B) acute detoxification or psychiatric hospitalization and treatment (residential and intensive outpatient);

''(C) community-based rehabilitation and aftercare;

''(D) community education and involvement, including extensive training of health care, educational, and community-based personnel;

''(E) specialized residential treatment programs for high risk populations including pregnant and post partum women and their children;

''(F) diagnostic services utilizing, when appropriate, neuropsychiatric assessments which include the use of the most advances technology available; and

''(G) a telepsychiatry program that uses experts in the field of pediatric psychiatry, and that incorporates assessment, diagnosis and treatment for children, including those children with concurrent neurological disorders.

''(2) TARGET POPULATIONS.—The target population of the program under paragraph (1) shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

''(b) CONTRACT HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service (with the consent of the Indian tribe to be served), Indian tribes and tribal organizations, may enter into contracts with public or private providers of behavioral health treatment services for the purpose of carrying out the program required under subsection (a).

''(2) PROVISION OF ASSISTANCE.—In carrying out this subsection, the Secretary shall provide assistance to Indian tribes and tribal organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

"SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary shall establish and maintain a Mental Health Technician program within the Service which—

''(1) provides for the training of Indians as mental health technicians; and

''(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

''(b) TRAINING.—In carrying out subsection (a)(1), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

''(c) SUPERVISION AND EVALUATION.—The Secretary shall supervise and evaluate the mental health technicians in the training program under this section.

''(d) TRADITIONAL CARE.—The Secretary shall ensure that the program established pursuant to this section involves the utilization and promotion of the traditional Indian health care and treatment practices of the Indian tribes to be served.

"SEC. 705. LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.

''Subject to section 220, any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act shall—

''(1) in the case of a person employed as a psychologist to provide health care services, be licensed as a clinical or counseling psychologist, or working under the direct supervision of a clinical or counseling psychologist;

''(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

''(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

"SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.

''(a) FUNDING.—The Secretary, consistent with section 701, shall make funding available to Indian tribes, tribal organizations and urban Indian organization to develop and implement a comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the spiritual, cultural, historical, social, and child care needs of Indian women, regardless of age.

''(b) USE OF FUNDS.—Funding provided pursuant to this section may be used to—

''(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol disorders;

''(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

''(3) develop prevention and intervention models for Indian women which incorporate

traditional health care practices, cultural values, and community and family involvement.

''(c) CRITERIA.—The Secretary, in consultation with Indian tribes and tribal organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

''(d) EARMARK OF CERTAIN FUNDS.—Twenty percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

''SEC. 707. INDIAN YOUTH PROGRAM.

''(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall, consistent with section 701, develop and implement a program for acute detoxification and treatment for Indian youth that includes behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian tribes or tribal organizations at the local level under the Indian Self-Determination and Education Assistance Act. Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

''(b) ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS OR FACILITIES.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, or tribal organizations, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an area office.

''(B) AREA OFFICE IN CALIFORNIA.—For purposes of this subsection, the area office in California shall be considered to be 2 area offices, 1 office whose jurisdiction shall be considered to encompass the northern area of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

''(2) FUNDING.—For the purpose of staffing and operating centers or facilities under this subsection, funding shall be made available pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act).

''(3) LOCATION.—A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) that is agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

''(4) SPECIFIC PROVISION OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

''(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska;

''(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l));

''(iii) the Southern Indian Health Council, for the purpose of staffing, operating, and maintaining a residential youth treatment facility in San Diego County, California; and

''(iv) the Navajo Nation, for the staffing, operation, and maintenance of the Four Corners Regional Adolescent Treatment Center, a residential youth treatment facility in New Mexico.

''(B) PROVISION OF SERVICES TO ELIGIBLE YOUTH.—Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

''(c) INTERMEDIATE ADOLESCENT BEHAVIORAL HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes and tribal organizations, may provide intermediate behavioral health services, which may incorporate traditional health care practices, to Indian children and adolescents, including—

''(A) pre-treatment assistance;

''(B) inpatient, outpatient, and after-care services;

''(C) emergency care;

''(D) suicide prevention and crisis intervention; and

''(E) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

''(2) USE OF FUNDS.—Funds provided under this subsection may be used—

''(A) to construct or renovate an existing health facility to provide intermediate behavioral health services;

''(B) to hire behavioral health professionals;

''(C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate behavioral health services are being provided; and

''(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and

''(E) to provide intensive home- and community-based services, including collaborative systems of care.

''(3) CRITERIA.—The Secretary shall, in consultation with Indian tribes and tribal organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

''(d) FEDERALLY OWNED STRUCTURES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall, in consultation with Indian tribes and tribal organizations—

''(A) identify and use, where appropriate, federally owned structures suitable for local residential or regional behavioral health treatment for Indian youth; and

''(B) establish guidelines, in consultation with Indian tribes and tribal organizations, for determining the suitability of any such Federally owned structure to be used for local residential or regional behavioral health treatment for Indian youth.

''(2) TERMS AND CONDITIONS FOR USE OF STRUCTURE.—Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Indian tribe or tribal organization operating the program.

''(e) REHABILITATION AND AFTERCARE SERVICES.—

''(1) IN GENERAL.—The Secretary, an Indian tribe or tribal organization, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit, community-based rehabilitation and follow-up services for Indian youth who have significant behavioral health problems, and require long-term treatment, community reintegration, and monitoring to support the Indian youth after their return to their home community.

''(2) ADMINISTRATION.—Services under paragraph (1) shall be administered within each service unit or tribal program by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

''(f) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youth authorized by this section, the Secretary, an Indian tribe or tribal organization shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

''(g) MULTIDRUG ABUSE PROGRAM.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall provide, consistent with section 701, programs and services to prevent and treat the abuse of multiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youth residing in Indian communities, on Indian reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youth.

''SEC. 708. INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION AND STAFFING ASSESSMENT.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, in each area of the Service, not less than 1 inpatient mental health care facility, or the equivalent, for Indians with behavioral health problems.

''(b) TREATMENT OF CALIFORNIA.—For purposes of this section, California shall be considered to be 2 areas of the Service, 1 area whose location shall be considered to encompass the northern area of the State of California and 1 area whose jurisdiction shall be considered to encompass the remainder of the State of California.

''(c) CONVERSION OF CERTAIN HOSPITAL BEDS.—The Secretary shall consider the possible conversion of existing, under-utilized Service hospital beds into psychiatric units to meet needs under this section.

''SEC. 709. TRAINING AND COMMUNITY EDUCATION.

''(a) COMMUNITY EDUCATION.—

''(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement, or provide funding to enable Indian tribes and tribal organization to develop and implement, within each service unit or tribal program a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community.

''(2) EDUCATION.—A program under paragraph (1) shall include education concerning behavioral health for political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

''(3) TRAINING.—Community-based training (oriented toward local capacity development) under a program under paragraph (1) shall include tribal community provider training (designed for adult learners from

the communities receiving services for prevention, intervention, treatment and aftercare).

''(b) TRAINING.—The Secretary shall, either directly or through Indian tribes or tribal organization, provide instruction in the area of behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol disorders, to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

''(c) COMMUNITY-BASED TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with Indian tribes, tribal organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

''(1) the elevated risk of alcohol and behavioral health problems faced by children of alcoholics;

''(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

''(3) community-based and multidisciplinary strategies for preventing and treating behavioral health problems.

''SEC. 710. BEHAVIORAL HEALTH PROGRAM.

''(a) PROGRAMS FOR INNOVATIVE SERVICES.—The Secretary, acting through the Service, Indian Tribes or tribal organizations, consistent with Section 701, may develop, implement, and carry out programs to deliver innovative community-based behavioral health services to Indians.

''(b) CRITERIA.—The Secretary may award funding for a project under subsection (a) to an Indian tribe or tribal organization and may consider the following criteria:

''(1) Whether the project will address significant unmet behavioral health needs among Indians.

''(2) Whether the project will serve a significant number of Indians.

''(3) Whether the project has the potential to deliver services in an efficient and effective manner.

''(4) Whether the tribe or tribal organization has the administrative and financial capability to administer the project.

''(5) Whether the project will deliver services in a manner consistent with traditional health care.

''(6) Whether the project is coordinated with, and avoids duplication of, existing services.

''(c) FUNDING AGREEMENTS.—For purposes of this subsection, the Secretary shall, in evaluating applications or proposals for funding for projects to be operated under any funding agreement entered into with the Service under the Indian Self-Determination Act and Education Assistance Act, use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding.

''SEC. 711. FETAL ALCOHOL DISORDER FUNDING.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—The Secretary, consistent with Section 701, acting through Indian tribes, tribal organizations, and urban Indian organizations, shall establish and operate fetal alcohol disorders programs as provided for in this section for the purposes of meeting the health status objective specified in section 3(b).

''(2) USE OF FUNDS.—Funding provided pursuant to this section shall be used to—

''(A) develop and provide community and in-school training, education, and prevention programs relating to fetal alcohol disorders;

''(B) identify and provide behavioral health treatment to high-risk women;

''(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to fetal alcohol disorder affected persons and their families or caretakers;

''(D) develop and implement counseling and support programs in schools for fetal alcohol disorder affected children;

''(E) develop prevention and intervention models which incorporate traditional practitioners, cultural and spiritual values and community involvement;

''(F) develop, print, and disseminate education and prevention materials on fetal alcohol disorders;

''(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol disorder clinics for use in tribal and urban Indian communities;

''(H) develop early childhood intervention projects from birth on to mitigate the effects of fetal alcohol disorders; and

''(I) develop and fund community-based adult fetal alcohol disorder housing and support services.

''(3) CRITERIA.—The Secretary shall establish criteria for the review and approval of applications for funding under this section.

''(b) PROVISION OF SERVICES.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall—

''(1) develop and provide services for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol disorders in Indian communities; and

''(2) provide supportive services, directly or through an Indian tribe, tribal organization or urban Indian organization, including services to meet the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians with fetal alcohol disorders.

''(c) TASK FORCE.—

''(1) IN GENERAL.—The Secretary shall establish a task force to be known as the Fetal Alcohol Disorders Task Force to advise the Secretary in carrying out subsection (b).

''(2) COMPOSITION.—The task force under paragraph (1) shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the National Institute of Child Health & Human Development, the Centers for Disease Control and Prevention, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian fetal alcohol disorders experts.

''(d) APPLIED RESEARCH.—The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make funding available to Indian Tribes, tribal organizations and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and urban Indians affected by fetal alcohol disorders.

''(e) URBAN INDIAN ORGANIZATIONS.—The Secretary shall ensure that 10 percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

''SEC. 712. CHILD SEXUAL ABUSE AND PREVENTION TREATMENT PROGRAMS.

''(a) ESTABLISHMENT.—The Secretary and the Secretary of the Interior, acting through the Service, Indian tribes and tribal organizations, shall establish, consistent with section 701, in each service area, programs involving treatment for—

''(1) victims of child sexual abuse; and

''(2) perpetrators of child sexual abuse.

''(b) USE OF FUNDS.—Funds provided under this section shall be used to—

''(1) develop and provide community education and prevention programs related to child sexual abuse;

''(2) identify and provide behavioral health treatment to children who are victims of sexual abuse and to their families who are affected by sexual abuse;

''(3) develop prevention and intervention models which incorporate traditional health care practitioners, cultural and spiritual values, and community involvement;

''(4) develop and implement, though the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

''(5) identify and provide behavioral health treatment to perpetrators of child sexual abuse with efforts being made to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated, and to provide treatment after release to the community until it is determined that the perpetrator is not a threat to children.

''SEC. 713. BEHAVIORAL MENTAL HEALTH RESEARCH.

''(a) IN GENERAL.—The Secretary, acting through the Service and in consultation with appropriate Federal agencies, shall provide funding to Indian Tribes, tribal organizations and urban Indian organizations or, enter into contracts with, or make grants to appropriate institutions, for the conduct of research on the incidence and prevalence of behavioral health problems among Indians served by the Service, Indian Tribes or tribal organizations and among Indians in urban areas. Research priorities under this section shall include—

''(1) the inter-relationship and inter-dependence of behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries, and the incidence of family violence; and

''(2) the development of models of prevention techniques.

''(b) SPECIAL EMPHASIS.—The effect of the inter-relationships and interdependencies referred to in subsection (a)(1) on children, and the development of prevention techniques under subsection (a)(2) applicable to children, shall be emphasized.

''SEC. 714. DEFINITIONS.

''In this title:

''(1) ASSESSMENT.—The term 'assessment' means the systematic collection, analysis and dissemination of information on health status, health needs and health problems.

''(2) ALCOHOL RELATED NEURODEVELOPMENTAL DISORDERS.—The term 'alcohol related neurodevelopmental disorders' or 'ARND' with respect to an individual means the individual has a history of maternal alcohol consumption during pregnancy, central nervous system involvement such as developmental delay, intellectual deficit, or neurologic abnormalities, that behaviorally, there may be problems with irritability, and failure to thrive as infants, and

that as children become older there will likely be hyperactivity, attention deficit, language dysfunction and perceptual and judgment problems.

''(3) BEHAVIORAL HEALTH.—The term 'behavioral health' means the blending of substances (alcohol, drugs, inhalants and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services. Such term includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multidisciplinary approach.

''(4) BEHAVIORAL HEALTH AFTERCARE.—

''(A) IN GENERAL.—The term 'behavioral health aftercare' includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse or mental health outpatient or outpatient treatment, to help prevent or treat relapse, including the development of an aftercare plan.

''(B) AFTERCARE PLAN.—Prior to the time at which an individual is discharged from a level of care, such as outpatient treatment, an aftercare plan shall have been developed for the individual. Such plan may use such resources as community base therapeutic group care, transitional living, a 12-step sponsor, a local 12-step or other related support group, or other community based providers (such as mental health professionals, traditional health care practitioners, community health aides, community health representatives, mental health technicians, or ministers).

''(5) DUAL DIAGNOSIS.—The term 'dual diagnosis' means coexisting substance abuse and mental illness conditions or diagnosis. In individual with a dual diagnosis may be referred to as a mentally ill chemical abuser.

''(6) FETAL ALCOHOL DISORDERS.—The term 'fetal alcohol disorders' means fetal alcohol syndrome, partial fetal alcohol syndrome, or alcohol related neural developmental disorder.

''(7) FETAL ALCOHOL SYNDROME.—The term 'fetal alcohol syndrome' or 'FAS' with respect to an individual means a syndrome in which the individual has a history of maternal alcohol consumption during pregnancy, and with respect to which the following criteria should be met:

''(A) Central nervous system involvement such as developmental delay, intellectual deficit, microencephaly, or neurologic abnormalities.

''(B) Craniofacial abnormalities with at least 2 of the following: microphthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose.

''(C) Prenatal or postnatal growth delay.

''(8) PARTIAL FAS.—The term 'partial FAS' with respect to an individual means a history of maternal alcohol consumption during pregnancy having most of the criteria of FAS, though not meeting a minimum of at least 2 of the following: micro-ophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, short upturned nose.

''(9) REHABILITATION.—The term 'rehabilitation' means to restore the ability or capacity to engage in usual and customary life activities through education and therapy.–

''(10) SUBSTANCE ABUSE.—The term 'substance abuse' includes inhalant abuse.

''SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE VIII—MISCELLANEOUS

''SEC. 801. REPORTS.

''The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

''(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population, including specific comparisons of appropriations provided and those required for such parity;

''(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact, including a report on proposed changes in the allocation of funding pursuant to section 808;

''(3) a report on the use of health services by Indians—

''(A) on a national and area or other relevant geographical basis;

''(B) by gender and age;

''(C) by source of payment and type of service;

''(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

''(E) on the services provided under funding agreements pursuant to the Indian Self-Determination and Education Assistance Act;

''(4) a report of contractors concerning health care educational loan repayments under section 110;

''(5) a general audit report on the health care educational loan repayment program as required under section 110(n);

''(6) a separate statement that specifies the amount of funds requested to carry out the provisions of section 201;

''(7) a report on infectious diseases as required under section 212;

''(8) a report on environmental and nuclear health hazards as required under section 214;

''(9) a report on the status of all health care facilities needs as required under sections 301(c)(2) and 301(d);

''(10) a report on safe water and sanitary waste disposal facilities as required under section 302(h)(1);

''(11) a report on the expenditure of non-service funds for renovation as required under sections 305(a)(2) and 305(a)(3);

''(12) a report identifying the backlog of maintenance and repair required at Service and tribal facilities as required under section 314(a);

''(13) a report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII and XIX of the Social Security Act as required under section 403(a);

''(14) a report on services sharing of the Service, the Department of Veteran's Affairs, and other Federal agency health programs as required under section 412(c)(2);

''(15) a report on the evaluation and renewal of urban Indian programs as required under section 505;

''(16) a report on the findings and conclusions derived from the demonstration project as required under section 512(a)(2);

''(17) a report on the evaluation of programs as required under section 513; and

''(18) a report on alcohol and substance abuse as required under section 701(f).

''SEC. 802. REGULATIONS.

''(a) INITIATION OF RULEMAKING PROCEDURES.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out this Act.

''(2) PUBLICATION.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary not later than 270 days after the date of enactment of this Act and shall have not less than a 120 day comment period.

''(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this Act shall expire 18 months from the date of enactment of this Act.

''(b) RULEMAKING COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of Title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian tribes, and tribal organizations, a majority of whom shall be nominated by and be representatives of Indian tribes, tribal organizations, and urban Indian organizations from each service area.

''(c) ADAPTION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

''(d) FAILURE TO PROMULGATE REGULATIONS.—The lack of promulgated regulations shall not limit the effect of this Act.

''(e) SUPREMACY OF PROVISIONS.—The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation that is inconsistent with the provisions of this Act.

''SEC. 803. PLAN OF IMPLEMENTATION.

''Not later than 240 days after the date of enactment of this Act, the Secretary, in consultation with Indian tribes, tribal organizations, and urban Indian organizations, shall prepare and submit to Congress a plan that shall explain the manner and schedule (including a schedule of appropriate requests), by title and section, by which the Secretary will implement the provisions of this Act.

''SEC. 804. AVAILABILITY OF FUNDS.

''Amounts appropriated under this Act shall remain available until expended.

''SEC. 805. LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE.

''Any limitation on the use of funds contained in an Act providing appropriations for the Department for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Service.

''SEC. 806. ELIGIBILITY OF CALIFORNIA INDIANS.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service:

''(1) Any member of a Federally recognized Indian tribe.

''(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

''(A) is a member of the Indian community served by a local program of the Service; and

''(B) is regarded as an Indian by the community in which such descendant lives.

''(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

''(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

''(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

''SEC. 807. HEALTH SERVICES FOR INELIGIBLE PERSONS.

''(a) INELIGIBLE PERSONS.—

''(1) IN GENERAL.—Any individual who—

''(A) has not attained 19 years of age;

''(B) is the natural or adopted child, stepchild, foster-child, legal ward, or orphan of an eligible Indian; and

''(C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

''(2) SPOUSES.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses or spouses who are married to members of the Indian tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe or tribal organization providing such services. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

''(b) PROGRAMS AND SERVICES.—

''(1) PROGRAMS.—

''(A) IN GENERAL.—The Secretary may provide health services under this subsection through health programs operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

''(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals; and

''(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

''(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians; and

''(II) there is no reasonable alternative health program or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

''(B) FUNDING AGREEMENTS.—In the case of health programs operated under a funding agreement entered into under the Indian Self-Determination and Educational Assistance Act, the governing body of the Indian tribe or tribal organization providing health services under such funding agreement is authorized to determine whether health services should be provided under such funding agreement to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

''(2) LIABILITY FOR PAYMENT.—

''(A) IN GENERAL.—Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880 of the Social Security Act, section 402(a) of this Act, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of the program providing the service and shall be used solely for the provision of health services within that program. Amounts collected under this subsection shall be available for expenditure within such program for not to exceed 1 fiscal year after the fiscal year in which collected.

''(B) SERVICES FOR INDIGENT PERSONS.—Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

''(3) SERVICE AREAS.—

''(A) SERVICE TO ONLY ONE TRIBE.—In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

''(B) MULTI-TRIBAL AREAS.—In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

''(c) PURPOSE FOR PROVIDING SERVICES.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to—

''(1) achieve stability in a medical emergency;

''(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

''(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum; or

''(4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

''(d) HOSPITAL PRIVILEGES.—Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Education Assistance Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

''(e) DEFINITION.—In this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

''SEC. 808. REALLOCATION OF BASE RESOURCES.

''(a) REQUIREMENT OF REPORT.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

''(b) NONAPPLICATION OF SECTION.—Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.

''SEC. 809. RESULTS OF DEMONSTRATION PROJECTS.

''The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.

''SEC. 810. PROVISION OF SERVICES IN MONTANA.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cr. 1987).

''(b) RULE OF CONSTRUCTION.—The provisions of subsection (a) shall not be construed to be an expression of the sense of the Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

''SEC. 811. MORATORIUM.

''During the period of the moratorium imposed by Public Law 100–446 on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration, relating to eligibility for the health care services of the Service, the Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of sections 806 and 807 until such time as new criteria governing eligibility for services are developed in accordance with section 802.

''SEC. 812. TRIBAL EMPLOYMENT.

''For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, Chapter 372), an Indian tribe or tribal organization carrying out a funding agreement under the Self-Determination and Education Assistance Act shall not be considered an employer.

''SEC. 813. PRIME VENDOR.

''For purposes of section 4 of Public Law 102–585 (38 U.S.C. 812) Indian tribes and tribal organizations carrying out a grant, cooperative agreement, or funding agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall be deemed to be an executive agency and part of the Service and, as such, may act

as an ordering agent of the Service and the employees of the tribe or tribal organization may order supplies on behalf thereof on the same basis as employees of the Service.

"SEC. 814. NATIONAL BI-PARTISAN COMMISSION ON INDIAN HEALTH CARE ENTITLEMENT.

''(a) ESTABLISHMENT.—There is hereby established the National Bi-Partisan Indian Health Care Entitlement Commission (referred to in this Act as the 'Commission').

''(b) MEMBERSHIP.—The Commission shall be composed of 25 members, to be appointed as follows:

''(1) Ten members of Congress, of which—

''(A) three members shall be from the House of Representatives and shall be appointed by the majority leader;

''(B) three members shall be from the House of Representatives and shall be appointed by the minority leader;

''(C) two members shall be from the Senate and shall be appointed by the majority leader; and

''(D) two members shall be from the Senate and shall be appointed by the minority leader;

who shall each be members of the committees of Congress that consider legislation affecting the provision of health care to Indians and who shall elect the chairperson and vice-chairperson of the Commission.

''(2) Twelve individuals to be appointed by the members of the Commission appointed under paragraph (1), of which at least 1 shall be from each service area as currently designated by the Director of the Service, to be chosen from among 3 nominees from each such area as selected by the Indian tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and with due regard being given to a reasonable representation on the Commission of members who are familiar with various health care delivery modes and who represent tribes of various size populations.

''(3) Three individuals shall be appointed by the Director of the Service from among individual who are knowledgeable about the provision of health care to Indians, at least 1 of whom shall be appointed from among 3 nominees from each program that is funded in whole or in part by the Service primarily or exclusively for the benefit of urban Indians.

All those persons appointed under paragraphs (2) and (3) shall be members of Federally recognized Indian Tribes.

''(c) TERMS.—

''(1) IN GENERAL.—Members of the Commission shall serve for the life of the Commission.

''(2) APPOINTMENT OF MEMBERS.—Members of the Commission shall be appointed under subsection (b)(1) not later than 90 days after the date of enactment of this Act, and the remaining members of the Commission shall be appointed not later than 60 days after the date on which the members are appointed under such subsection.

''(3) VACANCY.—A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

''(d) DUTIES OF THE COMMISSION.—The Commission shall carry out the following duties and functions:

''(1) Review and analyze the recommendations of the report of the study committee established under paragraph (3) to the Commission.

''(2) Make recommendations to Congress for providing health services for Indian persons as an entitlement, giving due regard to the effects of such a programs on existing health care delivery systems for Indian persons and the effect of such programs on the sovereign status of Indian Tribes;

''(3) Establish a study committee to be composed of those members of the Commission appointed by the Director of the Service and at least 4 additional members of Congress from among the members of the Commission which shall—

''(A) to the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian tribes, tribal organizations and urban Indian organizations, and which may include authorizing and funding feasibility studies of various models for providing and funding health services for all Indian beneficiaries including those who live outside of a reservation, temporarily or permanently;

''(B) make recommendations to the Commission for legislation that will provide for the delivery of health services for Indians as an entitlement, which shall, at a minimum, address issues of eligibility, benefits to be provided, including recommendations regarding from whom such health services are to be provided, and the cost, including mechanisms for funding of the health services to be provided;

''(C) determine the effect of the enactment of such recommendations on the existing system of the delivery of health services for Indians;

''(D) determine the effect of a health services entitlement program for Indian persons on the sovereign status of Indian tribes;

''(E) not later than 12 months after the appointment of all members of the Commission, make a written report of its findings and recommendations to the Commission, which report shall include a statement of the minority and majority position of the committee and which shall be disseminated, at a minimum, to each Federally recognized Indian tribe, tribal organization and urban Indian organization for comment to the Commission; and

''(F) report regularly to the full Commission regarding the findings and recommendations developed by the committee in the course of carrying out its duties under this section.

''(4) Not later than 18 months after the date of appointment of all members of the Commission, submit a written report to Congress containing a recommendation of policies and legislation to implement a policy that would establish a health care system for Indians based on the delivery of health services as an entitlement, together with a determination of the implications of such an entitlement system on existing health care delivery systems for Indians and on the sovereign status of Indian tribes.

''(e) ADMINISTRATIVE PROVISIONS.—

''(1) COMPENSATION AND EXPENSES.—

''(A) CONGRESSIONAL MEMBERS.—Each member of the Commission appointed under subsection (b)(1) shall receive no additional pay, allowances, or benefits by reason of their service on the Commission and shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

''(B) OTHER MEMBERS.—The members of the Commission appointed under paragraphs (2) and (3) of subsection (b), while serving on the business of the Commission (including travel time) shall be entitled to receive compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, be allowed travel expenses, as authorized by the chairperson of the Commission. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

''(2) MEETINGS AND QUORUM.—

''(A) MEETINGS.—The Commission shall meet at the call of the chairperson.

''(B) QUORUM.—A quorum of the Commission shall consist of not less than 15 members, of which not less than 6 of such members shall be appointees under subsection (b)(1) and not less than 9 of such members shall be Indians.

''(3) DIRECTOR AND STAFF.—

''(A) EXECUTIVE DIRECTOR.—The members of the Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay equal to that for level V of the Executive Schedule.

''(B) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

''(C) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

''(D) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(E) FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

''(f) POWERS.—

''(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, except that at least 6 regional hearings shall be held in different areas of the United States in which large numbers of Indians are present. Such hearings shall be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this paragraph, at least 5 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established under this section may be counted towards the number of regional hearings required by this paragraph.

''(2) STUDIES BY GAO.—Upon request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

''(3) COST ESTIMATES.—

''(A) IN GENERAL.—The Director of the Congressional Budget Office or the Chief Actuary of the Health Care Financing Administration, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

''(B) REIMBURSEMENTS.—The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary

for the Director to comply with requests by the Commission under subparagraph (A).

''(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any federal Agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the federal employee.

''(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal Agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

''(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal Agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

''(7) OBTAINING INFORMATION.—The Commission may secure directly from the any Federal Agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 4, United States Code. Upon request of the chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

''(8) SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,000,000 to carry out this section. The amount appropriated under this subsection shall not be deducted from or affect any other appropriation for health care for Indian persons.

''SEC. 815. APPROPRIATIONS; AVAILABILITY.

''Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

''SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.''.

TITLE II—CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Subtitle A—Medicare

SEC. 201. LIMITATIONS ON CHARGES.

Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (R), by striking ''and'' at the end;

(2) in subparagraph (S), by striking the period and inserting '', and''; and

(3) by adding at the end the following:

''(T) in the case of hospitals and critical access hospitals which provide inpatient hospital services for which payment may be made under this title, to accept as payment in full for services that are covered under and furnished to an individual eligible for the contract health services program operated by the Indian Health Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), in accordance with such admission practices and such payment methodology and amounts as are prescribed under regulations issued by the Secretary.''.

SEC. 202. QUALIFIED INDIAN HEALTH PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1880 the following:

''QUALIFIED INDIAN HEALTH PROGRAM

''SEC. 1880A. (a) DEFINITION OF QUALIFIED INDIAN HEALTH PROGRAM.—In this section:

''(1) IN GENERAL.—The term 'qualified Indian health program' means a health program operated by—

''(A) the Indian Health Service;

''(B) an Indian tribe or tribal organization or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act) and which is funded in whole or part by the Indian Health Service under the Indian Self Determination and Education Assistance Act; or

''(C) an urban Indian organization (as so defined) and which is funded in whole or in part under title V of the Indian Health Care Improvement Act.

''(2) INCLUDED PROGRAMS AND ENTITIES.—Such term may include 1 or more hospital, nursing home, home health program, clinic, ambulance service or other health program that provides a service for which payments may be made under this title and which is covered in the cost report submitted under this title or title XIX for the qualified Indian health program.

''(b) ELIGIBILITY FOR PAYMENTS.—A qualified Indian health program shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as the program meets all the conditions and requirements set forth in this section.

''(c) DETERMINATION OF PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision in the law, a qualified Indian health program shall be entitled to receive payment based on an all-inclusive rate which shall be calculated to provide full cost recovery for the cost of furnishing services provided under this section.

''(2) DEFINITION OF FULL COST RECOVERY.—

''(A) IN GENERAL.—Subject to subparagraph (B), in this section, the term 'full cost recovery' means the sum of—

''(i) the direct costs, which are reasonable, adequate and related to the cost of furnishing such services, taking into account the unique nature, location, and service population of the qualified Indian health program, and which shall include direct program, administrative, and overhead costs, without regard to the customary or other charge or any fee schedule that would otherwise be applicable; and

''(ii) indirect costs which, in the case of a qualified Indian health program—

''(I) for which an indirect cost rate (as that term is defined in section 4(g) of the Indian Self-Determination and Education Assistance Act) has been established, shall be not less than an amount determined on the basis of the indirect cost rate; or

''(II) for which no such rate has been established, shall be not less than the administrative costs specifically associated with the delivery of the services being provided.

''(B) LIMITATION.—Notwithstanding any other provision of law, the amount determined to be payable as full cost recovery may not be reduced for co-insurance, co-payments, or deductibles when the service was provided to an Indian entitled under Federal law to receive the service from the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization or because of any limitations on payment provided for in any managed care plan.

''(3) OUTSTATIONING COSTS.—In addition to full cost recovery, a qualified Indian health program shall be entitled to reasonable outstationing costs, which shall include all administrative costs associated with outreach and acceptance of eligibility applications for any Federal or State health program including the programs established under this title, title XIX, and XXI.

''(4) DETERMINATION OF ALL-INCLUSIVE ENCOUNTER OR PER DIEM AMOUNT.—

''(A) IN GENERAL.—Costs identified for services addressed in a cost report submitted by a qualified Indian health program shall be used to determine an all-inclusive encounter or per diem payment amount for such services.

''(B) NO SINGLE REPORT REQUIREMENT.—Not all qualified Indian health programs provided or administered by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization need be combined into a single cost report.

''(C) PAYMENT FOR ITEMS NOT COVERED BY A COST REPORT.—A full cost recovery payment for services not covered by a cost report shall be made on a fee-for-service, encounter, or per diem basis.

''(5) OPTIONAL DETERMINATION.—The full cost recovery rate provided for in paragraphs (1) through (3) may be determined, at the election of the qualified Indian health program, by the Health Care Financing Administration or by the State agency responsible for administering the State plan under title XIX and shall be valid for reimbursements made under this title, title XIX, and title XXI. The costs described in paragraph (2)(A) shall be calculated under whatever methodology yields the greatest aggregate payment for the cost reporting period, provided that such methodology shall be adjusted to include adjustments to such payment to take into account for those qualified Indian health programs that include hospitals—

''(A) a significant decrease in discharges;

''(B) costs for graduate medical education programs;

''(C) additional payment as a disproportionate share hospital with a payment adjustment factor of 10; and

''(D) payment for outlier cases.

''(6) ELECTION OF PAYMENT.—A qualified Indian health program may elect to receive payment for services provided under this section—

''(A) on the full cost recovery basis provided in paragraphs (1) through (5);

''(B) on the basis of the inpatient or outpatient encounter rates established for Indian Health Service facilities and published annually in the Federal Register;

''(C) on the same basis as other providers are reimbursed under this title, provided that the amounts determined under paragraph (c)(2)(B) shall be added to any such amount;

''(D) on the basis of any other rate or methodology applicable to the Indian Health Service or an Indian Tribe or tribal organization; or

''(E) on the basis of any rate or methodology negotiated with the agency responsible for making payment.

''(d) ELECTION OF REIMBURSEMENT FOR OTHER SERVICES.—

''(1) IN GENERAL.—A qualified Indian health program may elect to be reimbursed for any service the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization may be reimbursed for under section 1880 and section 1911.

''(2) OPTION TO INCLUDE ADDITIONAL SERVICES.—An election under paragraph (1) may

include, at the election of the qualified Indian health program—

''(A) any service when furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service to the same extent that such service would be reimbursable if performed by a physician and any service or supplies furnished as incident to a physician's service as would otherwise be covered if furnished by a physician or as an incident to a physician's service;

''(B) screening, diagnostic, and therapeutic outpatient services including part-time or intermittent screening, diagnostic, and therapeutic skilled nursing care and related medical supplies (other than drugs and biologicals), furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service for an individual in the individual's home or in a community health setting under a written plan of treatment established and periodically reviewed by a physician, when furnished to an individual as an outpatient of a qualified Indian health program;

''(C) preventive primary health services as described under section 330 of the Public Health Service Act, when provided by an employee of the qualified Indian health program who is licensed or certified to perform such a service, regardless of the location in which the service is provided;

''(D) with respect to services for children, all services specified as part of the State plan under title XIX, the State child health plan under title XXI, and early and periodic screening, diagnostic, and treatment services as described in section 1905(r);

''(E) influenza and pneumococcal immunizations;

''(F) other immunizations for prevention of communicable diseases when targeted; and

''(G) the cost of transportation for providers or patients necessary to facilitate access for patients.''.

Subtitle B—Medicaid

SEC. 211. STATE CONSULTATION WITH INDIAN HEALTH PROGRAMS.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (64), by striking ''and'' at the end:

(2) in paragraph (65), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (65), the following:

''(66) if the Indian Health Service operates or funds health programs in the State or if there are Indian tribes or tribal organizations or urban Indian organizations (as those terms are defined in Section 4 of the Indian Health Care Improvement Act) present in the State, provide for meaningful consultation with such entities prior to the submission of, and as a precondition of approval of, any proposed amendment, waiver, demonstration project, or other request that would have the effect of changing any aspect of the State's administration of the State plan under this title, so long as—

''(A) the term 'meaningful consultation' is defined through the negotiated rulemaking process provided for under section 802 of the Indian Health Care Improvement Act; and

''(B) such consultation is carried out in collaboration with the Indian Medicaid Advisory Committee established under section 415(a)(3) of that Act.''.

SEC. 212. FMAP FOR SERVICES PROVIDED BY INDIAN HEALTH PROGRAMS.

The third sentence of Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended to read as follows:

''Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per cent with respect to amounts expended as medical assistance for services which are received through the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act) under section 1911, whether directly, by referral, or under contracts or other arrangements between the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization and another health provider.''.

SEC. 213. INDIAN HEALTH SERVICE PROGRAMS.

Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended to read as follows:

''INDIAN HEALTH SERVICE PROGRAMS

''SEC. 1911. (a) IN GENERAL.—The Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan by such entities if and for so long as the Service, Indian tribe or tribal organization, or urban Indian organization provides services or provider types of a type otherwise covered under the State plan and meets the conditions and requirements which are applicable generally to the service for which it seeks reimbursement under this title and for services provided by a qualified Indian health program under section 1880A.

''(b) PERIOD FOR BILLING.—Notwithstanding subsection (a), if the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization which provides services of a type otherwise covered under the State plan does not meet all of the conditions and requirements of this title which are applicable generally to such services submits to the Secretary within 6 months after the date on which such reimbursement is first sought an acceptable plan for achieving compliance with such conditions and requirements, the Service, an Indian tribe or tribal organization, or urban Indian organization shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of actual compliance with such conditions and requirements during the first 12 months after the month in which such plan is submitted.

''(c) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided by the Indian Health Service, Indian tribes or tribal organizations, or urban Indian organizations, directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization and another health care provider to Indians who are eligible for medical assistance under the State plan.''.

Subtitle C—State Children's Health Insurance Program

SEC. 221. ENHANCED FMAP FOR STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

(a) IN GENERAL.—Section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)) is amended—

(1) by striking ''For purposes'' and inserting the following:

''(1) IN GENERAL.—Subject to paragraph (2), for purposes''; and

(2) by adding at the end the following:

''(2) SERVICES PROVIDED BY INDIAN PROGRAMS.—Without regard to which option a State chooses under section 2101(a), the 'enhanced FMAP' for a State for a fiscal year shall be 100 per cent with respect to expenditures for child health assistance for services provided through a health program operated by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act).''.

(b) CONFORMING AMENDMENT.—Section 2105(c)(6)(B) of such Act (42 U.S.C. 1397ee(c)(6)(B)) is amended by inserting ''an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act),'' after ''Service,''.

SEC. 222. DIRECT FUNDING OF STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

Title XXI of Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. DIRECT FUNDING OF INDIAN HEALTH PROGRAMS.

''(a) IN GENERAL.—The Secretary may enter into agreements directly with the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act) for such entities to provide child health assistance to Indians who reside in a service area on or near an Indian reservation. Such agreements may provide for funding under a block grant or such other mechanism as is agreed upon by the Secretary and the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization. Such agreements may not be made contingent on the approval of the State in which the Indians to be served reside.

''(b) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, a State may transfer funds to which it is, or would otherwise be, entitled to under this title to the Indian Health Service, an Indian tribe or tribal organization or an urban Indian organization—

''(1) to be administered by such entity to achieve the purposes and objectives of this title under an agreement between the State and the entity; or

''(2) under an agreement entered into under subsection (a) between the entity and the Secretary.''.

Subtitle D—Authorization of Appropriations

SEC. 231. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 through 2015 to carry out this title and the amendments by this title.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REPEALS.

The following are repealed:

(1) Section 506 of Public Law 101–630 (25 U.S.C. 1653 note) is repealed.

(2) Section 712 of the Indian Health Care Amendments of 1988 is repealed.

SEC. 302. SEVERABILITY PROVISIONS.

If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SEC. 303. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on October 1, 2003.

By Ms. COLLINS (for herself, Mr. GRASSLEY, Mr. BINGAMAN, Mr. COCHRAN, Mr. DASCHLE, Mr. SARBANES, and Mr. SMITH):

S. 557. A bill to amend the Internal Revenue Code of 1986 to exclude from

gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise to introduce the Civil Rights Tax Relief Act of 2003, a bill designed to promote the fair and equitable settlement of civil rights claims. I am very pleased to be joined today by Senators GRASSLEY, DASCHLE, BINGAMAN, COCHRAN, and SARBANES.

The primary purpose of this bill is to remedy an unintended consequence of the Small Business Job Protection Act of 1996, which made damage awards that are not based on ''physical injuries or physical sickness'' part of a plaintiff's taxable income. Because most acts of employment discrimination and civil rights violations do not cause physical injuries, this provision has had a direct and negative impact on plaintiffs who successfully prove that they have been subjected to intentional employment discrimination or other intentional violations of their civil rights.

The problem is compounded by the fact that plaintiffs are now taxed on the entirety of their settlements or damage awards in civil rights cases, despite the fact that a portion of a settlement or award must be paid to the plaintiff's attorney, who in turn is taxed on the same funds. This double taxation of attorneys' fees awards penalizes Americans who win their civil rights cases.

I would like to share one example of how individuals can be harmed by the current taxation scheme, and even discouraged from challenging workplace discrimination. The example was brought to my attention by David Webbert, an attorney who practices in Augusta, ME—my State's capital. In one of his cases, David represented a person who successfully challenged a business' policy of discriminating against persons with a particular type of disability. As a result of the case, the discriminatory policy was declared illegal and was ended. Although the plaintiff did not receive any monetary damages in the case, the law did provide for payment of attorney's fees, which were paid by the defendant's insurance company. Because of the current law's double taxation of attorney's fees, they were taxable to the plaintiff in this case, despite the fact that they were also taxable to the attorney. In short, plaintiffs in civil rights cases like this could have to pay taxes even though they receive no monetary award. Or, in other words, under current law, a plaintiff can actually be penalized financially for bringing a meritorious case against a company's discriminatory policies.

Our bill would eliminate the unfair taxation of civil rights victims' settlements and court awards—taxation that adds insult to a civil rights victim's injury and serves as a barrier to the just settlement of civil rights claims.

Our bill would change the taxation of awards received by individuals that result from judgments in or settlements of employment discrimination cases. First, the bill excludes from gross income amounts awarded other than for punitive damages and compensation attributable to services that were to be performed, known as ''backpay,'' or that would have been performed but for a claimed violation of law by the employer, known as ''frontpay.'' Second, award amounts for frontpay or backpay would be included in income, but would be eligible for income averaging according to the time period covered by the award. This correction would allow individuals to pay taxes at the same marginal rates that would have applied to them had they not suffered discrimination. Third, the bill would change the tax code so that people who bring civil rights cases are not taxed on the portion of any award paid as fees to their attorney. This provision would eliminate the double-taxation of such fees, which would still be taxable income to the attorney.

The Civil Rights Tax Relief Act would encourage the fair settlement of costly and protracted litigation of employment discrimination claims. Our legislation would allow both plaintiffs and defendants to settle claims based on the damages suffered, not on the excessive taxes that are now levied.

Our bill has been endorsed by the U.S. Chamber of Commerce, AARP, the National Employment Lawyers Association, the No FEAR Coalition, the Religious Action Committee for Reform Judaism, the Society for Human Resource Management, and others. This bill is a ''win-win'' for civil rights plaintiffs and defendant businesses. I invite my colleagues to join in support of this common sense legislation.

By Mr. MCCAIN (for himself, Mr. BINGAMAN, Mr. CAMPBELL, Mrs. MURRAY, Mr. JOHNSON, and Mr. DOMENICI):

S. 558. A bill to elevate the position Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I rise to introduce legislation to designate the Director of the Indian Health Service as an Assistant Secretary for Indian Health within the Department of Health and Human Services. I'm pleased that my colleagues, Senators BINGAMAN, CAMPBELL, MURRAY, JOHNSON, and DOMENICI are joining me in this effort as original co-sponsors.

The purpose of this legislation is simple. It will redesignate the current Director of the Indian Health Service, IHS, as a new Assistant Secretary within the Department of Health and Human Services to be responsible for Indian health policy and budgetary matters.

The Indian Health Service is the primary health care delivery system and principal advocate for Indian health care needs, both on the reservation level and for urban populations. More than 1.6 million Indian people are served every year by the IHS, yet the agency has not had the necessary resources to fully meet tribal health care needs. The IHS will continue to be challenged by a growing Indian population as well as an increasing disparity between the health status of Indian people as compared to other Americans. Thousands of Indian people continue to suffer from the worst imaginable health care conditions in Indian country—from diabetes to cancer to infant mortality. In nearly every category, the health status of Native Americans falls far below the national standard.

The purpose of this bill is to respond to the desire by Indian people for a stronger leadership and policy role within the primary health care agency, the Department of Health and Human Services. The Assistant Secretary for Indian Health will ensure that critical policy and budgetary decisions will be made with the full involvement and consultation of not only the Indian Health Service, but also the direct involvement of tribal governments.

This legislation is long overdue in bringing focus and national attention to the health care status of Indian people and fulfilling the Federal trust responsibility toward Indian tribes. Implementation of this bill is intended to support the long-standing policies of Indian self-determination and tribal self-governance and assist Indian tribes who are making positive strides in providing direct health care to their own communities.

Tribal communities are in dire need of a senior policy official who is knowledgeable about the programs administered by the IHS and who can provide the leadership for the health care needs of American Indians and Alaska Natives. We continue to pursue passage of this legislation as many believe that the priority of Indian health issues within the Department should be raised to the highest levels within our federal government.

I look forward to working with my colleagues on both sides of the aisle and the Administration to ensure prompt passage of this legislation. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) DEFINITIONS.—In this section:

(1) ASSISTANT SECRETARY.—The term ''Assistant Secretary'' means the Assistant Secretary for Indian Health appointed under subsection (b)(2)(A).

(2) DEPARTMENT.—The term ''Department'' means the Department of Health and Human Services.

(3) OFFICE.—The term ''Office'' means the Office of the Assistant Secretary for Indian Health established by subsection (b)(1).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department the Office of the Assistant Secretary for Indian Health.

(2) ASSISTANT SECRETARY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Office shall be headed by an Assistant Secretary for Indian Health, to be appointed by the President, by and with the advice and consent of the Senate.

(B) CONTINUED SERVICE BY INCUMBENT.—The individual serving in the position of Director of the Indian Health Service on the day before the date of enactment of this Act may serve as Assistant Secretary at the pleasure of the President after the date of enactment of this Act.

(3) DUTIES.—The position of Assistant Secretary is established to, in a manner consistent with the government-to-government relationship between the United States and Indian tribes—

(A) facilitate advocacy for the development of appropriate Indian health policy; and

(B) promote consultation on matters relating to Indian health.

(c) ASSISTANT SECRETARY FOR INDIAN HEALTH.—In addition to the functions performed as of the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary shall—

(1) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

(2) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(3) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(4) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

(5) coordinate the activities of the Department concerning matters of Indian health; and

(6) perform such other functions as the Secretary may designate.

(d) RATE OF PAY.—

(1) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Health and Human Services (6).'' and inserting ''Assistant Secretaries of Health and Human Services (7).''.

(2) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking ''Director, Indian Health Service, Department of Health and Human Services.''.

(e) DUTIES OF ASSISTANT SECRETARY FOR INDIAN HEALTH.—Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661) is amended by striking the section heading and all that follows through subsection (a) and inserting the following:

''SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service.

''(2) ADMINISTRATION.—The Indian Health Service shall be administered by the Assistant Secretary for Indian Health.

''(3) DUTIES.—In carrying out paragraph (2), the Assistant Secretary shall—

''(A) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

''(B) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

''(C) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

''(D) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility;

''(E) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health; and

''(F) perform such other functions as the Secretary may designate.''.

(f) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.—The Indian Health Care Improvement Act is amended—

(A) in section 601 (25 U.S.C. 1661)—

(i) in subsection (c), by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''; and

(ii) in subsection (d)(1), by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''; and

(B) in section 816(c)(1) (25 U.S.C. 1680f(c)(1)), by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(2) AMENDMENTS TO OTHER PROVISIONS OF LAW.—

(A) Section 3307(b)(1)(C) of the Children's Health Act of 2000 (25 U.S.C. 1671 note; Public Law 106–310) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(B) The Indian Lands Open Dump Cleanup Act of 1994 is amended—

(i) in section 3 (25 U.S.C. 3902)—

(I) by striking paragraph (2);

(II) by redesignating paragraphs (1), (3), (4), (5), and (6) as paragraphs (4), (5), (2), (6), and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(III) by inserting before paragraph (4) (as redesignated by subclause (II)) the following:

''(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary for Indian Health.'';

(ii) in section 5 (25 U.S.C. 3904), by striking the section heading and inserting the following:

''SEC. 5. AUTHORITY OF ASSISTANT SECRETARY FOR INDIAN HEALTH.'';

(iii) in section 6(a) (25 U.S.C. 3905(a)), in the subsection heading, by striking ''DIRECTOR'' and inserting ''ASSISTANT SECRETARY'';

(iv) in section 9(a) (25 U.S.C. 3908(a)), in the subsection heading, by striking ''DIRECTOR'' and inserting ''ASSISTANT SECRETARY''; and

(v) by striking ''Director'' each place it appears and inserting ''Assistant Secretary''.

(C) Section 5504(d)(2) of the Augustus F. Hawkins–Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note; Public Law 100–297) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(D) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 763(a)(1)) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(E) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377) are amended by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''.

(F) Section 317M(b) of the Public Health Service Act (42 U.S.C. 247b–14(b)) is amended—

(i) by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''; and

(ii) in paragraph (2)(A), by striking ''the Directors referred to in such paragraph'' and inserting ''the Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Indian Health''.

(G) Section 417C(b) of the Public Health Service Act (42 U.S.C. 285–9(b)) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(H) Section 1452(i) of the Safe Drinking Water Act (42 U.S.C. 300j–12(i)) is amended by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''.

(I) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)) is amended in the last sentence by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(J) Section 203(b) of the Michigan Indian Land Claims Settlement Act (Public Law 105–143; 111 Stat. 2666) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(g) REFERENCES.—Any reference to the Director of the Indian Health Service in any other Federal law, Executive order, rule, regulation, or delegation of authority, or in any document of or relating to the Director of the Indian Health Service, shall be deemed to refer to the Assistant Secretary.

By Mr. CAMPBELL:

S. 559. A bill to amend title 49, United States Code, to permit an individual to operate a commercial motor vehicle solely within the borders of a State if the individual meets certain minimum standards prescribed by the State, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. CAMPBELL. Mr. President, today I am introducing the Commercial Driver's License Devolution Act of 2003. This bill is identical to that which I introduced in the 107th Congress as a companion bill to language originally brought to the floor of the House of Representatives by my friend from North Carolina, Representative HOWARD COBLE.

I believe it is no secret to my colleagues here in the Senate, that I support small business and returning power to the States. The traditional, one-size-fits-all approach to governing has done more harm than good, and this bill is an attempt to remedy some of that.

This legislation will give States the option to establish their own commercial driver's license, CDL, requirements for intrastate drivers. It will return power to the States by giving them the option to license intrastate drivers of commercial motor vehicles based upon testing standards determined by the individual States. And I stress, it will be an ''option.''

I want to emphasize that this legislation is not a Federal mandate imposed on States. States that choose not to participate would remain under Federal guidelines. A State that chooses to exercise this option would in no way diminish the role of the CDL in the long-haul trucking industry. Additionally, this legislation effectively precludes two or more States from using this option as the basis for an interstate compact.

As I am sure my colleagues are aware, the Commercial Motor Vehicle Safety Act of 1986, CMVSA, required States to establish a new and uniform program of testing and licensure for all operators of commercial vehicles both intra and interstate. The principal objectives of the Act have been met, and would not be harmed by this legislation I'm introducing here today.

I have no issue with the CMVSA. It is a good law, and at the time the provisions it contained were necessary and timely for improving the standards of performance for long-haul truck drivers in this country. However, I, like my counterpart in the House, believe the CMVSA was imposed upon intrastate commerce where the operation of trucks may be a small but necessary part of an individual's job. Therefore, the reality was that Washington imposed its will on thousands of small businesses across this country who aren't involved in long-haul trucking and we expected them to adjust to any circumstance that might arise. That's unfair and not what government is supposed to be about.

When you have conditions such as these, I believe it should be within a State's discretion to determine what kind of commercial vehicle licensure and testing is required for commerce taking place solely within its borders.

This legislation is important to our nation's small businesses, especially those dependent upon commercial truck travel, which means it's important to the consumers. I urge my colleagues in the Senate to support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Commercial Driver's License Devolution Act of 2003''.

SEC. 2. INTRASTATE OPERATION OF COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Paragraph (1) of section 31305(b) of title 49, United States Code, is amended—

(1) by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following:

''(3) An individual may operate a commercial motor vehicle solely within the borders of a State if the individual—

''(A) meets the minimum standards prescribed under the laws of that State for ensuring the fitness of an individual to operate a commercial motor vehicle; and

''(B) has passed written and driving tests to operate a commercial motor vehicle that meet the minimum standards prescribed under the laws of that State.''.

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) of such title is amended—

(1) in paragraph (1)—

(A) by striking ''with'' and inserting ''with either''; and

(B) by striking ''under section 31305(a)'' and inserting ''or by the State under section 31305''; and

(2) in paragraph (2), by striking ''the minimum standards'' and inserting ''either the minimum standards prescribed by the Secretary of Transportation or by the State under section 31305 of this title''.

By Mr. CRAIG (for himself, Mr. DAYTON, Mr. COLEMAN, Mr. LEAHY, Mr. BOND, Mr. BINGAMAN, Ms. SNOWE, Mrs. LINCOLN, Mr. SHELBY, Mr. JEFFORDS, Mr. DOMENICI, Mr. LEVIN, Ms. COLLINS, Mr. JOHNSON, Mr. SPECTER, Mr. FEINGOLD, and Mr. KOHL):

S. 560. A bill to impose tariff-rate quotas on certain casein and milk protein concentrates; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I am pleased today to show my support for the Milk Import Tariff Equity Act of 2003 by being an original cosponsor of Senator CRAIG'S bill. This legislation will prevent foreign dairy products from continuing to circumvent U.S. trade laws.

Currently, milk protein concentrate, MPC, is not subject to the same quotas required of other dairy products. Foreign dairy producers have begun exploiting this loophole by blending previously processed dairy proteins with nonfat dry milk to boost its protein content so that it qualifies as milk protein concentrate. This allows the milk protein concentrate to circumvent any laws that would subject the imports to tariff rate quotas.

The result has been a flood of foreign dairy blends being imported in the U.S. market, displacing sales of domestic dairy products and lowering prices for American dairy farmers.

As milk prices are at historic lows, down about 38 percent from prices last year, this flood of foreign dairy products has put a strain on many of the dairy farmers in my State of Wisconsin.

Since many of the blended products imported into this country are heavily subsidized, American farmers are forced to compete on an unfair playing field. This loophole in our tariff schedule allows certain heavily subsidized foreign dairy products nearly unfettered access to our dairy markets, hurting the American dairy farmers.

As I travel across Wisconsin, I have heard from any dairy farmers who are struggling to stay in business. Many of these farmers are concerned about the flood of unfair imports that are hurting our American dairy markets.

In March of 2001, the General Accounting Office, GAO, released a report that highlighted the increase of milk protein concentrates coming into this country under outdated trade laws. The report pointed to a loophole in our trade laws that has resulted in increased imports of blended dairy proteins. The importing of blended dairy proteins is being done solely for the purpose of avoiding the U.S. tariff rate quota for nonfat dry milk.

The GAO study determined that MPC imports surged by more than 600 percent in the six years before the report was released. MPC imports lower prices for U.S. dairy farmers by displacing sales of domestic dairy products.

Since I have received the results from the General Accounting Office study that reported this loophole in U.S. trade laws, I have participated in a bipartisan effort to amend this loophole, so that we may protect our dairy farmers from unfair trade practices and help them in the struggle to farm on such an unfair playing field.

This bill would close this loophole by regulating milk protein concentrate imports in the same manner all other dairy import products are regulated. It would correct a loophole that exists in U.S. trade law that is contributing to such low dairy prices experienced in my state of Wisconsin and across the Nation.

This loophole depresses the price of milk for farmers, costs U.S. taxpayers money, and gives foreign dairy producers an unfair advantage over our own dairy farmers. It is time for this Congress to stand behind our farmers and that is why I support the Milk Import Tariff Equity Act of 2003.

Mr. LEAHY. Mr. President, I am pleased to join my colleagues Senator MARK DAYTON and Senator LARRY CRAIG in introducing the bipartisan Milk Import Tariff Equity Act. Our bill will prevent importers of dairy products from circumventing U.S. trade laws.

Although I opposed it at the time, during the Uruguay Round multilateral trade negotiations, the United States agreed to allow a substantial increase in dairy product imports into this country. Tariff rate quotas were established to allow imports of most dairy products to rise from an average of 2 percent of domestic consumption to as much as five percent. At least initially, these controls appeared to be effective. But foreign competitors have found ways to circumvent these quotas by adjusting the protein content of nonfat dry milk so that it is classified

by the U.S. Customs Service as milk protein concentrate, MPC. While nonfat dry milk imports are strictly regulated, there are no quotas on MPCs and duties are low.

A recent GAO study requested by Congress determined that MPC imports surged by more than 600 percent over a six year period. MPC imports lower prices for U.S. dairy farmers by displacing sales of nonfat dry milk. According to the GAO study, some exporters are blending previously processed dairy proteins, such as casein, whey and nonfat dry milk into MPC solely for the purpose of avoiding the U.S. tariff rate quota for nonfat dry milk. This practice, specifically cited in the GAO report, circumvents statutory U.S. trade provisions designed to regulate imports of nonfat dry milk powder.

It is time to close this loophole. Under our bill, MPCs would be regulated in the same manner as all other dairy products: by imposing tariff-rate quotas on MPC imports. This legislation also closes a similar loophole that exists for casein used in the production of food or feed, while continuing to allow unrestricted access for imports of casein used in the manufacture of glues and for other industrial purposes.

Most Americans probably don't realize it, because retail fluid milk prices have hardly changed, but dairy farmers in Vermont and across this Nation are really struggling. Farm-gate milk prices have fallen more than 30 percent over the past 18 months and are now at the lowest levels in 25 years. Even the most efficient producers are unable to make a profit at these prices. Prices are low in part due to these imports. Others will argue that MPC imports represent just a small fraction of U.S. milk production. But when you are dealing with a perishable commodity like milk, even a slight increase in supply can have a dramatic effect on prices.

Closing the MPC loophole is one of the most important steps we can take to help our nation's dairy farmers. I commend Senators DAYTON and CRAIG for their leadership on this issue, and I urge my colleagues to join me in cosponsoring this important legislation.

By Mr. CRAPO (for himself, Mr. ENZI, Mr. CRAIG, Mr. DOMENICI, Mr. BURNS, and Mr. SMITH):

S. 561. A bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes; to the Committee on the Judiciary.

Mr. CRAPO. Mr. President, I rise to introduce the State Water Sovereignty Protection Act, a bill to preserve the authority of the States over waters within their boundaries, to delegate the authority of the Congress to the States to regulate water, and for other purposes.

Since 1866, Congress has recognized and deferred to the States the authority to allocate and administer water within their borders. The Supreme Court has confirmed that this is an appropriate role for the States. Additionally, in 1952, the Congress passed the McCarran amendment which provides for the adjudication of State and Federal Water claims in State water courts.

However, despite both judicial and legislative edicts, I am deeply concerned that the administration, Federal agencies, and some in the Congress are setting the stage for ignoring long established statutory provisions concerning State water rights and State water contracts. The Endangered Species Act, the Clean Water Act, the Federal Land Policy Management Act, and wilderness designations have all been vehicles used to erode State sovereignty over its water.

It is imperative that States maintain sovereignty over management and control of their water and river systems. All rights to water or reservations of rights for any purposes in States should be subject to the substantive and procedural laws of that State, not the Federal Government. To protect State water rights, I am introducing the State Water Sovereignty Protection Act.

The State Water Sovereignty Protection Act provides that whenever the United States seeks to appropriate water or acquire a water right, it will be subject to State procedural and substantive water law. The Act further holds that States control the water within their boundaries and that the Federal Government may exercise management or control over water only in compliance with State law. Finally, in any administrative or judicial proceeding in which the United States participates pursuant to the McCarran Amendment, the United States is subject to all costs and fees to the same extent as costs and fees may be imposed on a private party.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. INHOFE, and Mr. SMITH):

S. 562. A bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes; to the Committee on the Judiciary.

Ms. MURKOWSKI. Mr. President, earlier this week, the Senate, in a 94–0 vote, went on record expressing its unanimous opposition to last week's decision by the Ninth Circuit Court of Appeals refusing to review a three-judge panel ruling that bars children in public schools from voluntarily reciting the Pledge of Allegiance.

The Pledge decision rendered by the court is not an aberration. It is symptomatic of a court that has become dysfunctional and out-of-touch with American jurisprudence, common sense, and constitutional values. Unfortunately, citizens in the states that are within the Ninth Circuit's jurisdiction have had to contend with the court's idiosyncratic jurisprudence for decades.

One should not be surprised that the full Ninth Circuit refused to reconsider this ill-conceived decision. The recent history of the court suggests a judicial activism that is close to the fringe of legal reasoning. And it is for that reason that the Ninth Circuit has, by far, the highest reversal rate in the country. During the 1990s, almost 90 percent of cases from the Ninth Circuit reviewed by the Supreme Court were reversed. In 1997, a startling 27 of the 28 cases brought before the Supreme Court were reversed—two-thirds by a unanimous vote.

Over the last three years, one-third of all cases reversed by the Supreme Court came from the 9th Circuit. That's three times the number of reversals for the next nearest circuit. And 33 times higher than the reversal rate for the 10th Circuit

Last November, on a single day, the Supreme Court summarily and unanimously reversed three Ninth Circuit decisions. In one of those three cases, the Supreme Court ruled that the circuit had overreached its authority and stated that the Court ''exceed[ed] the limits imposed on federal habeas review substitut[ing] its own judgment for that of the state court.''

One of the reasons the Ninth Circuit is reversed so often is because the circuit has become too large and unwieldy. The Circuit serves a population of more than 54 million people, almost 60 percent more than are served by the next largest circuit. By 2010, the Census Bureau estimates that the Ninth Circuit's population will be more than 63 million.

According to the Administrative Office of the U.S. Courts, the Ninth Circuit alone accounts for more than 60 percent of all appeals pending for more than a year. And with its huge caseload, the judges on the Court just do not have the opportunity to keep up with decisions within the circuit, let alone decisions from other circuits

Another problem unique to the Ninth Circuit is that it never speaks with one voice. All other circuits sit as one entity to hear full-court, en banc, cases. The Ninth Circuit sits in panels of 11. Clearly, such a procedure injects unnecessary randomness into decisions. If an en banc case is decided 6 to 5, there is no reason to think it represents the views of the majority of the court's 24 active members.

In fact, some commentators believe a majority of the 24 members of the court may have disagreed with the Pledge decision, but were concerned that a random pick of 11 members of the Court to hear the case, en banc, might have resulted in the decision being affirmed.

It is inconceivable to me that a circuit court could render a decision based on its concern about the potential makeup of an en banc panel. What

kind of jurisprudence is that? Citizens in no other circuit face that type of coin-flip justice. That is fundamentally unfair to every single one of the 54 million people who live within the jurisdiction of the Ninth Circuit and is reason alone to restructure the circuit.

It is time that Congress finally faces the fact that the Ninth Circuit is no longer a viable and functioning circuit. It is for that reason that I am today introducing the Ninth Circuit Court of Appeals Reorganization Act of 2003. I am pleased to be joined in this effort by Senators, STEVENS, BURNS, CRAIG, CRAPO, INHOFE, and SMITH.

The bill we are introducing today would divide the Ninth Circuit into two independent circuits. The restructured Ninth Circuit would contain California, and Nevada. A new Twelfth Circuit would be composed of Alaska, Hawaii, Arizona, Idaho, Montana, Oregon, Washington, Guam, and the Northern Mariana Islands.

Earlier I indicated a number of reasons why I believe the Circuit needs to be reorganized. Let us not forget the scope of this circuit and the 54 million people who live within it. The Ninth Circuit extends from the Arctic Circle to the Mexican border, spans the tropics of Hawaii and across the International Dateline to Guam and the Mariana Islands. Encompassing some 14 million square miles, the Ninth Circuit, by any means of measure, is the largest of all U.S. Circuit Courts of Appeal. It is larger than the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eleventh Circuits combined!

Moreover, because of the sheer magnitude of cases brought before the Court, citizens within the court's jurisdiction face unprecedented delays in getting their cases heard. Whereas the national average time to get a final disposition of an appellate case is nearly 11 months, an appeal in the Ninth Circuit takes nearly 50 percent longer—almost one year and four months.

This is not the first time that Congress has recognized that the Ninth Circuit needs restructuring. Numerous proposals to divide the Ninth Circuit were debated in Congress even before World War II.

In 1973, the Congressional Commission on the Revision of the Federal Court of Appellate System Commission, commonly known as the Hruska Commission, recommended that the Ninth Circuit be divided. Also that year, the American Bar Association adopted a resolution in support of dividing the Ninth Circuit.

In 1995, a bill was reported from the Senate Judiciary Committee in which Chairman ORRIN HATCH of Utah declared in his Committee's report that the time for a split had arrived: ''The legislative history, in conjunction with available statistics and research concerning the Ninth Circuit, provides an ample record for an informed decision at this point as to whether to divide the Ninth Circuit . . . Upon careful consideration the time has indeed come.''

In 1997, Congress commissioned a report on structural alternatives for the Federal courts of appeals. The Commission, chaired by former Supreme Court Justice Byron R. White, found numerous faults within the Ninth Circuit and recommended major reforms and a fundamental reorganization of the Circuit.

On the day my legislation is enacted into law, the concerns of the White Commission will be addressed. A more cohesive, efficient, and predictable judiciary will emerge.

Many who oppose legislation to reorganize the Ninth Circuit, contend that all the Circuit needs is the appropriation of more Federal dollars for more Federal judges. However, I do not believe more money will solve the inherent problems that exist in a circuit of such magnitude. As former Senator and Alabama Supreme Court Chief Justice, Howell Heflin, a Democrat from Alabama, remarked after Congress divided the former Fifth Circuit: ''congress recognized that a point is reached where the addition of judges decreases the effectiveness of the court, complicates the administration of uniform law, and potentially diminishes the quality of justice within a Circuit.'' in the case of the Ninth Circuit, there can be little doubt that we are at that point in time that former Senator Heflin cited.

Former Oregon Senator Bob Packwood believed that a Ninth Circuit split would enable judges to achieve a greater mastery of applicable, but unique, State law and State issues. He believed such mastery was necessary because ''burgeoning conflicts in the area of natural resources and the continuing expansion of international trade efforts will all expand the demand for judicial excellence . . . By reforming our courts now, they will be better able to dispense justice in a fair and expeditious manner.''

I agree with the former Senator. The uniqueness of the Northwest, and in particular, Alaska, cannot be overstated. An effective appellate process demands mastery of State law and State issues relative to the geographic land mass, population and native cultures that are unique to the relevant region. Presently, California is responsible for almost 50 percent of the appellate court's filings, which means that California judges and California judicial philosophy dominate judicial decisions on issues that are fundamentally unique to the Pacific Northwest. This need for greater regional representation is demonstrated by the fact that the East Coast is comprised of five Federal circuits. A division of the Ninth Circuit will enable judges, lawyers and parties to master a more manageable and predictable universe of relevant case law.

Further, a division of the Ninth Circuit would honor Congress' original intent in establishing appellate court boundaries that respect and reflect a regional identity. In spite of efforts to modernize the administration of the Ninth Circuit, its size works against the original purpose of its creation: the uniform, coherent and efficient development and application of Federal law in the region. Establishing a circuit comprised solely of States in the Northwest region would adhere to Congressional intent. And the State of Hawaii should rightfully be included in this circuit, for like Alaska, there are unique issues that are faced by the two States that are not part of the contiguous lower 48.

A new Twelfth Circuit, comprised of states of the Pacific Northwest, would respect the economic, historical, cultural and legal ties which philosophically unite this region.

No single Court can effectively exercise its power in an area that extends from the Arctic Circle to the tropics. Legislation dividing the Ninth Circuit will create a regional commonality that will lead to greater uniformity and consistency in the development of federal law, and will ultimately strengthen the constitutional guarantee of equal justice for all.

It is my hope that this Congress will finally approve this necessary reorganization. It is long overdue.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ninth Circuit Court of Appeals Reorganization Act of 2003''.

SEC. 2. DEFINITIONS.

In this Act:

(1) FORMER NINTH CIRCUIT.—The term ''former ninth circuit'' means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act.

(2) NEW NINTH CIRCUIT.—The term ''new ninth circuit'' means the ninth judicial circuit of the United States established by the amendment made by section 3(2)(A).

(3) TWELFTH CIRCUIT.—The term ''twelfth circuit'' means the twelfth judicial circuit of the United States established by the amendment made by section 3(2)(C).

SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking ''thirteen'' and inserting ''fourteen''; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... California, Nevada.'';

(B) by inserting between the last 2 items the following:

''Twelfth .... Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.''.

SEC. 4. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... 25'';

(2) by inserting between the last 2 items the following:

''Twelfth ..... 13.''

SEC. 5. PLACES OF CIRCUIT COURT.

The table in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... San Francisco, Los Angeles.'';

and

(2) by inserting between the last 2 items at the end the following:

''Twelfth .... Portland, Seattle.''.

SEC. 6. ELECTION OF ASSIGNMENT BY CIRCUIT JUDGES.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding section 44(c) of title 28, United States Code, each circuit judge who is in regular active service, and each judge who is a senior judge, of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 7. SENIORITY OF JUDGES.

The seniority of each judge who elects to be assigned under section 6 shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 8. APPLICATION TO CASES.

(a) IN GENERAL.—The provisions of the following paragraphs of this subsection apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for re-hearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1), shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

SEC. 9. ADMINISTRATION.

(a) ACTIONS.—The former ninth circuit as constituted on the day before the effective date of this Act may take such administrative actions as may be required to carry out this Act and the amendments made by this Act.

(b) TERMINATION.—The former ninth circuit shall cease to exist for administrative purposes on July 1, 2005.

(c) MEETINGS.—During the 10 years following the date of enactment of this Act, the new ninth circuit and the twelfth circuit may meet in either circuit's jurisdiction.

SEC. 10. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 2003.

By Ms. LANDRIEU (for herself, Mr. SUNUNU, Mr. BURNS, Mr. DODD, Mr. GREGG, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, Mr. LIEBERMAN, Mr. LOTT, Ms. MIKULSKI, Mr. KENNEDY, Mr. MILLER, Mr. DORGAN, and Mr. KERRY):

S. 564. A bill to facilitate the deployment of wireless telecommunications networks I order to further the availability of the Emergency Alert System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, today I rise to introduce the Emergency Communications and Competition Act, ECCA, along with my colleague from New Hampshire, Senator Sununu. We are joined by twelve of our colleagues, led by Senator BURNS, the distinguished chairman of the Commerce Communications Subcommittee, as well as Senators DODD, GREGG, HUTCHISON, INOUYE, JEFFORDS, LOTT, KENNEDY, LEAHY, LIEBERMAN, MIKULSKI, and MILLER.

The bill we introduce today is identical to S. 2922, the measure which Senator BURNS and I co-authored in the 107th Congress. I was very pleased and grateful for the tremendous support this legislation received from local television broadcasters and a wide range of public interest groups that speak for consumers, minority groups, rural Americans, health care, public safety, and property rights.

This bill will ensure that consumers will soon be able to avail themselves of an innovative new wireless technology that has been approved by the Federal Communications Commission. It is called the Multichannel Video Distribution and Data Service, MVDDS, a title which accurately describes what this new service will provide consumers: cable competition and high speed access to the Internet.

As I indicated in my introductory remarks to S. 2922 last September, unless Congress enacts this legislation, it may be years before MVDDS is actually deployed to the public. That would be a lost opportunity for consumers. We need to improve our communications infrastructure, not only for greater access to cable and the Internet, but also for public safety purposes. MVDDS technology can address all of these needs, and we should remove unnecessary and counterproductive regulatory obstacles that prevent its swift deployment.

The Consumers Union, like many, has supported ECCA because it will help ensure that competition rapidly emerges for video programming as well as high speed Internet services. Earlier this year, the Consumers Union issued a report, ''Cable Mergers, Monopoly Power and Price Increases,'' which documents the most recent steep rate increases imposed by cable operators. The report noted, for instance, that cable rates in Baton Rouge soared 7 percent last November. This was typical of rate increases throughout the country.

According to the most recent data from the Bureau of Labor Statistics, cable rates rose 11.4 percent in just the last two years. This compares to a 3.8 percent increase in the Consumer Price Index over the same period. According to the FCC, just one percent of cable communities enjoy ''effective competition.'' I submit that this startling lack of competition, more than anything else, explains why local cable rates have increased at three times the inflation rate.

If MVDDS can go head-to-head with incumbent cable systems in all parts of the country, I believe that this good old fashioned competition will result in lower prices and better service for consumers—even for those who don't choose to subscribe to MVDDS.

Rural organizations recognize the extraordinary opportunity this new wireless technology can offer rural Americans. They understand that the FCC's Order, which authorized MVDDS, will likely fail to ensure this new technology will indeed adequately serve rural America.

Local television broadcasters support this measure because it will ensure consumers in their markets can view all local television stations. Today, satellite operators DirecTV and EchoStar do not carry over 1,000 local TV channels—and no stations from ten States: Alaska, Arkansas, Idaho, Maine, Montana, Mississippi, North and South Dakota, West Virginia, and Wyoming. As you know, the satellite operators sought to merge so that they would have sufficient capacity to carry all local TV stations, but federal regulators rejected the merger on anti-competitive grounds.

The Emergency Communications and Competition Act, which we are re-introducing today, will restore fairness in the FCC licensing process, and in so doing, speed the deployment of MVDDS to applicants that are ready to launch service to the public now.

The bill provides that MVDDS applicants will be licensed in the same manner as satellite companies who applied on the same day to share the same spectrum. Currently, the FCC plans to subject only MVDDS applicants to an auction process. This would impose a discriminatory tax on an innovative new technology. Unfortunately, this is more of the same burdensome regulation that I believe has contributed to the collapse of the telecommunications sector. Government regulation is necessary, certainly, but we must be smart in how we regulate business. We must ensure that our laws and regulations are technologically neutral so

that government policies don't replace the role of the marketplace in determining the fate of consumer products and services.

In an Order released last month, the FCC recognized the need to prevent disparity in licensing when it authorized certain satellite spectrum to be re-used for mobile terrestrial service without requiring a spectrum auction. Similarly, the ECCA would prohibit the FCC from conducting an auction for licenses that re-use satellite spectrum for fixed terrrestrial operations.

Furthermore, an action would drastically delay the introduction of service to the public. Mr. President, this is quite the opposite of what spectrum auctions are supposed to do. In this case, industry incumbents can abuse the auction process to block the introduction of new competition. A company with vast resources available could easily trounce a small startup in an auction—and then, under the terms of the FCC's Order, it would not have to deploy service for 10 years. Consumers cannot and should not have to wait while this spectrum is ''shelved'' for an entire decade.

The ECCA solves this problem by ensuring that only qualified applicants will be licensed. That is, within six months of enactment, the FCC would issue licenses to any applicant that can demonstrate through independent testing that it will employ a technology that won't cause harmful interference to DBS operators with whom they would share spectrum. Then, to be sure that service is in fact deployed, the ECCA requires licensees to provide service to consumers within five rather than ten years.

This legislation also requires that parties who apply for licenses under this provision must assume specific public interest obligations in exchange for their prompt licensing. The bill requires full must-carry of local television stations, and an additional set aside of 4 percent of system capacity for other pubic interest purposes such as telemedicine and distance learning. I can assure my colleagues that these are issues particularly important in rural areas in states like Louisiana.

The ECCA will also promote public safety, in two ways. First, it will require MVDDS licensees to air Emergency Alert System warnings, including AMBER alerts for missing children. EAS warnings are presently carried by cable systems and over-the-air broadcasters, but they are not seen by those who get their programming from DBS unless the viewer happens to be watching a local channel. Obviously, the need for greater dissemination of EAS warnings is particularly important for the ten states in which no local stations are carried via satellite.

Second, this legislation requires MVDDS licensees to make their transmission systems available to national security and emergency preparedness personnel on a top-priority basis in times of need. We all know that when emergencies strike, the need for public safety personnel to communicate with one another skyrockets. MVDDS wireless networks, which will be deployed ubiquitously throughout the country, can help alleviate this thirst for spectrum.

For these reasons, I believe that Congress should act on this matter as soon as possible. I urge my colleagues to support his bill and vote for enactment. I as, unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Emergency Communications and Competition Act of 2003''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To facilitate the deployment of new wireless telecommunications networks in order to extend the reach of the Emergency Alert System (EAS) to viewers of multichannel video programming who may not receive Emergency Alert System warnings from other communications technologies.

(2) To ensure that emergency personnel have priority access to communications facilities in times of emergency.

(3) To promote the rapid deployment of low cost multi-channel video programming and broadband Internet services to the public, without causing harmful interference to existing telecommunications services.

(4) To ensure the universal carriage of local television stations, including any Emergency Alert System warnings, by multichannel video programming distributors in all markets, regardless of population.

(5) To advance the public interest by making available new high speed data and video services to unserved and underserved populations, including schools, libraries, tribal lands, community centers, senior centers, and low-income housing.

(6) To ensure that new technologies capable of fulfilling the purposes set forth in paragraphs (1) through (5) are licensed and deployed promptly after such technologies have been determined to be technologically feasible.

SEC. 3. LICENSING.

(a) GRANT OF CERTAIN LICENSES.—

(1) IN GENERAL.—The Federal Communications Commission shall assign licenses in the 12.2–12.7 GHz band for the provision of fixed terrestrial services using the rules, policies, and procedures used by the Commission to assign licenses in the 12.2–12.7 GHz band for the provision of international or global satellite communications services in accordance with section 647 of the Open-market Reorganization for the Betterment of International Telecommunications Act (47 U.S.C. 765f).

(2) DEADLINE.—The Commission shall accept for filing and grant licenses under paragraph (1) to any applicant that is qualified pursuant to subsection (b) not later than six months after the date of the enactment of this Act. The preceding sentence shall not be construed to preclude the Commission from granting licenses under paragraph (1) after the deadline specified in that sentence to applicants that qualify after that deadline.

(b) QUALIFICATIONS.—

(1) NON-INTERFERENCE WITH DIRECT BROADCAST SATELLITE SERVICE.—A license may be granted under this section only if operations under the license will not cause harmful interference to direct broadcast satellite service.

(2) ACCEPTANCE OF APPLICATIONS.—The Commission shall accept an application for a license to operate a fixed terrestrial service in the 12.2–12.7 GHz band if the applicant—

(A) successfully demonstrates the terrestrial technology it will employ under the license with operational equipment that it furnishes, or has furnished, for independent testing pursuant to section 1012 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110); and

(B) certifies in its application that it has authority to use such terrestrial service technology under the license.

(3) CLARIFICATION.—Section 1012(a) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110(a); 114 Stat. 2762A–141) is amended by inserting '', or files,'' after ''has filed''.

(4) PCS OR CELLULAR SERVICES.—A license granted under this section may not be used for the provision of Personal Communications Service or terrestrial cellular telephony service.

(c) PROMPT COMMENCEMENT OF SERVICE.—In order to facilitate and ensure the prompt deployment of service to unserved and underserved areas and to prevent stockpiling or warehousing of spectrum by licensees, the Commission shall require that any licensee under this section commence service to consumers within five years of the grant of the license under this section.

(d) EXPANSION OF EMERGENCY ALERT SYSTEM.—Each licensee under this section shall disseminate Federal, State, and local Emergency Alert System warnings to all subscribers of the licensee under the license under this section.

(e) ACCESS FOR EMERGENCY PERSONNEL.—

(1) REQUIREMENT.—Each licensee under this section shall provide immediate access for national security and emergency preparedness personnel to the terrestrial services covered by the license under this section as follows:

(A) Whenever the Emergency Alert System is activated.

(B) Otherwise at the request of the Secretary of Homeland Security.

(2) NATURE OF ACCESS.—Access under paragraph (1) shall ensure that emergency data is transmitted to the public, or between emergency personnel, at a higher priority than any other data transmitted by the service concerned.

(f) ADDITIONAL PUBLIC INTEREST OBLIGATIONS.—

(1) ADDITIONAL OBLIGATIONS.—Each licensee under this section shall—

(A) adhere to rules governing carriage of local television station signals and rules concerning obscenity and indecency consistent with sections 614, 615, 616, 624(d)(2), 639, 640, and 641 of the Communications Act of 1934 (47 U.S.C. 534, 535, 536, 544(d)(2), 559, 560, and 561);

(B) make its facilities available for candidates for public office consistent with sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315); and

(C) allocate 4 percent of its capacity for services that promote the public interest, in addition to the capacity utilized to fulfill the obligations required of subparagraphs (A) and (B), such as—

(i) telemedicine;

(ii) educational programming, including distance learning;

(iii) high speed Internet access to unserved and underserved populations; and

(iv) specialized local data and video services intended to facilitate public participation in local government and community life.

(2) LICENSE BOUNDARIES.—In order to ensure compliance with paragraph (1), the Commission shall establish boundaries for licenses under this section that conform to existing television markets, as determined by the Commission for purposes of section 652(h)(1)(C)(i) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)(i)).

(g) REDESIGNATION OF MULTICHANNEL VIDEO DISTRIBUTION AND DATA SERVICE.—The Commission shall redesignate the Multichannel Video Distribution and Data Service (MVDDS) as the Terrestrial Direct Broadcast Service (TDBS).

By Mr. EDWARDS:

S. 565. A bill to improve homeland security, prevent tax increases, support education and health care, and strengthen the economy; to the Committee on Appropriations.

Mr. EDWARDS. Mr. President, I rise today to introduce the Homeland Protection and Tax Hike Prevention Act of 2003.

As I speak, State governments face a budget gap of $80 billion in 2004, according to the National Governors Association. My own State of North Carolina must close a $2 billion deficit this year, the third year in a row that we have faced a deficit of $1 billion or more. There is an additional $30 billion deficit in 2003 that, for most States, must be closed before the fiscal year ends in June. Cities and towns face a similar budget pinch. The likely result in many States will be steep tax increases and budget cuts.

Because most States have seen two or three lean years in a row, the easiest cuts and sources of revenue have already been tapped. States already closed nearly $50 billion in deficits for 2003. According to Standard and Poor's, ''With rainy day funds having been depleted rapidly over the past three years, few options remain other than tough cuts or revenue increases.''

The State and local budget crisis is a serious threat to our economy. State spending cuts and tax increases equaling $100 billion would directly lower GDP growth by one percentage point, according to the Center on Budget and Policy Priorities. According to the Center, ''The only way this blow to the economy can be mitigated is through federal fiscal relief for the states.''

Millions of Americans across the Nation will be directly affected by State tax increases and budget cuts. For example, Kansas is considering new taxes on hair stylists, theaters, and doctors. Missouri is now taxing pharmacies. In fact, policymakers in 15 States are already calling for tax increases of approximately $14 billion in 2004.

New York budget proposals would raise class sizes and cut 43,000 early education slots in New York City. Florida may take away medical coverage for 26,000 low-income people. In California, hundreds of nursing homes are in danger of bankruptcy, according to the Washington Post. San Diego may close fire stations.

Portland, OR, will likely trim its school year by 24 days. Oregon State police are laying off 129 troopers and abandoning 24-hour patrols. The Multnomah county jail will release as many as 500 inmates early. Medical benefits will be eliminated for 8,000 elderly and disabled people.

This is wrong. It's wrong for the people being hurt. And it is wrong for our economy. That's why I am proposing the Homeland Protection and Tax Hike Prevention Act of 2003. This bill would enacts a State relief plan I first described last November. It gives States and cities a total of $50 billion, allowing them to avoid raising taxes and protect critical priorities in public safety, education, and health care.

First, my legislation would provide $10 billion to states and major cities to strengthen homeland security. We have a whole range of homeland security priorities that we ought to be meeting but we haven't. Although our domestic readiness begins with first responders, they are not getting the training and equipment they need to respond to an attack with speed, skill, and strength. Our public health system isn't fully prepared to respond to biological attacks. We need to modernize an emergency warning system that is terribly out of date so we can reach Americans at any time, day or night.

Our infrastructure is exposed. There are 500 large skyscrapers, 250 major arenas and stadiums, and countless train, subway, and automobile bridges and tunnels. Many of these facilities have vulnerable ventilation systems, poor emergency exits, and inadequate fire retardants and blast-resistant materials. Security at nuclear and chemical plants and over shipments is still too lax. At 123 chemical plants, a toxic chemical release would endanger a million people or more.

We need to meet all these priorities, and we can ought to meet them through a partnership between Washington, states, and local communities. This bill goes a long way toward doing that by providing $10 billion for homeland security.

Next, today's bill would provide States $10 billion through higher Medicaid reimbursements. Higher Medicaid reimbursements can dramatically help State budgets. It can also address serious inequities in the way Medicaid funds are distributed today. The legislation is based on Senator ROCKEFELLER's excellent proposal. It maintains last year's Medicaid matching rate where rates are declining and provides an additional modest, temporary increase in the matching rate. This short-lived relief will help states balance their budgets and protect children and seniors who rely on Medicaid.

Last but not least, my bill will give States and local governments $30 billion in general relief. In return for this aid, State and local governments must agree not to cut K–12 education funding or raise college tuition faster than inflation for low- and middle-income families.

Across the Nation, States and cities are struggling with more needs and less revenue. Washington is not doing its part to help. Instead, we have created new demands through the No Child Left Behind education reform law and the Federal special education laws, without delivering the resources needed to meet those demands. We ought to help States and localities meet those demands, and this bill will do that.

The Homeland Protection and Tax Hike Protection Act will strengthen our homeland security and prevent states and cities from raising taxes and cutting schools and health care. I hope my colleagues will join me in supporting it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Homeland Protection and Tax Hike Prevention Act of 2003''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to ameliorate the hardships faced by millions of Americans as a result of State and local budget crises, including tax increases and cuts to education, health care, and other vital State and local programs;

(2) to avoid the economic damage that would be caused by tens of billions of dollars in State and local tax increases and spending cuts that would further weaken the Nation's economic growth and job creation; and

(3) to improve the Nation's readiness for a terrorist attack by providing financial assistance to assist States and cities to—

(A) prepare first responders and emergency personnel;

(B) implement anti-counterfeiting protections;

(C) strengthen security at vulnerable targets, such as nuclear power plants and public transportation systems; and

(D) address other homeland security priorities.

SEC. 3. DEFINITIONS.

As used in this Act, the following definitions shall apply:

(1) STATE.—Except as used in section 6, the term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) METROPOLITAN STATISTICAL AREA.—The term ''metropolitan statistical area'' means a statistical geographic entity associated with at least 1 urbanized area that has a population of not less than 50,000, as identified by the Office of Management and Budget.

(3) METROPOLITAN CITY.—The term ''metropolitan city'' means—

(A) a central city within a metropolitan statistical area; and

(B) any other city within a metropolitan statistical area that has a population of not less than 50,000.

(4) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means—

(i) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local

government as determined by the Secretary of Commerce for general statistical purposes; and

(ii) the District of Columbia, the Commonwealth of Puerto Rico, and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(B) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this section, the rules under section 6720(c) of title 31, United States Code, shall apply.

SEC. 4. HOMELAND SECURITY GRANTS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From the amount appropriated under subsection (d), the Secretary of Homeland Security (referred to in this section as the ''Secretary'') shall, as soon as practicable after the date of enactment of this Act, award grants to States and metropolitan cities, which have submitted an application in accordance with subsection (c) to accomplish the objectives described under subsection (b).

(2) ALLOCATIONS TO STATES.—

(A) POPULATION-BASED ALLOCATIONS.—The Secretary shall allocate $2,500,000,000 for grants to the States based on the relative population of each State.

(B) RISK-BASED ALLOCATIONS.—Subject to paragraph (4), the Secretary shall allocate $2,500,000,000 for grants to the States based on—

(i) the potential risk, as it pertains to chemical security, of each State;

(ii) the proximity of each State to the nearest operating nuclear power plant;

(iii) the proximity of each State to the nearest United States land or water port;

(iv) the proximity of each State to the nearest international border; and

(v) the proximity of each State to the nearest Disaster Medical Assistance Team.

(3) ALLOCATIONS TO METROPOLITAN CITIES.—

(A) POPULATION-BASED ALLOCATIONS.—The Secretary shall allocate $2,500,000,000 for grants to units of general local government within metropolitan cities based on the relative population of each metropolitan statistical area.

(B) RISK-BASED ALLOCATIONS.—The Secretary shall allocate $2,500,000,000 for grants to metropolitan cities within metropolitan statistical areas based on—

(i) the potential risk, as it pertains to chemical security, of each metropolitan statistical area;

(ii) the proximity of each metropolitan statistical area to the nearest operating nuclear power plant;

(iii) the proximity of each metropolitan statistical area to the nearest United States land or water port;

(iv) the proximity of each metropolitan statistical area to the nearest international border; and

(v) the proximity of each metropolitan statistical area to the nearest Disaster Medical Assistance Team.

(C) METROPOLITAN CITIES.—The Secretary shall distribute the allocations under subparagraphs (A) and (B) to metropolitan cities based on the relative population of each such city.

(4) CLARIFICATION OF RISK FACTORS.—In allocating funds to States and metropolitan statistical areas under paragraphs (2)(B) and (3)(B), the Secretary shall equally weigh each of the following risk factors:

(A) POTENTIAL RISK AS IT PERTAINS TO CHEMICAL SECURITY.—If a State or metropolitan statistical area is within the vulnerable zone of a worst-case chemical release, as specified in the most recent risk management plans filed with the Environmental Protection Agency or another instrument developed by the Environmental Protection Agency or the Homeland Security Department that captures the same information for the same facilities, the ratio under paragraphs (2)(B)(i) and (3)(B)(i) shall be 1 divided by the total number of States or metropolitan statistical areas that are within such a zone.

(B) PROXIMITY AS IT PERTAINS TO NUCLEAR SECURITY.—If a State or metropolitan statistical area is located within 50 miles of an operating nuclear power plant, as identified by the Nuclear Regulatory Commission, the ratio under paragraphs (2)(B)(ii) and (3)(B)(ii) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of an operating nuclear power plant.

(C) PROXIMITY AS IT PERTAINS TO PORT SECURITY.—If a State or metropolitan statistical area is located within 50 miles of 1 of the 100 largest United States ports, as stated by the Department of Transportation, Bureau of Transportation Statistics, United States Port Report by All Land Modes, or within 50 miles of one of the 30 largest United States water ports by metric tons and value, as stated by the Department of Transportation, Maritime Administration, United States Foreign Waterborne Transportation Statistics, the ratio under paragraphs (2)(B)(iii) and (3)(B)(iii) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of a United States land or water port.

(D) PROXIMITY TO INTERNATIONAL BORDERS.—If a State or metropolitan statistical area is located within 50 miles of an international border, the ratio under paragraph (2)(B)(iv) and (3)(B)(iv) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of an international border.

(E) PROXIMITY TO DISASTER MEDICAL ASSISTANCE TEAMS.—If a State or metropolitan statistical area is located within 50 miles of a Disaster Medical Assistance Team, as organized by the National Disaster Medical System through the Department of Public Health, the ratio under paragraphs (2)(B)(v) and (3)(B)(v) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of a Disaster Medical Assistance Team.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used to—

(1) support police, fire, health, and other emergency personnel by—

(A) purchasing or upgrading communications systems, protective gear, or hazardous materials detection equipment;

(B) providing training for emergency responses; and

(C) providing for expenses related to retention of personnel and overtime;

(2) improve safeguards against the counterfeiting of official State documents, including—

(A) the improvement of procedures to obtain proof of identity before issuance of official identification cards; and

(B) the implementation of biometric identifiers and holograms;

(3) improve security at chemical plants by—

(A) strengthening requirements for perimeter security and assisting in meeting such requirements; and

(B) strengthening requirements for the use and handling of hazardous materials and assisting in meeting such requirements;

(4) improve security in train and subway cars and stations, on bridges, in tunnels, and in arenas by installing and improving—

(A) fire and blast protections;

(B) ventilation systems;

(C) entrance security;

(D) sensors to detect chemical and biological weapons; and

(E) emergency evacuation systems;

(5) improve security at and around skyscrapers, public monuments, and other major buildings;

(6) secure food and water supplies, reservoirs, water treatment plants, and distribution systems;

(7) strengthen protections of other critical networks, including—

(A) telecommunications;

(B) electrical power plants and grids; and

(C) computer networks and databases;

(8) plan and prepare for a response for chemical or biological attacks, including—

(A) purchasing, distributing, and storing treatments and preventive measures;

(B) providing emergency training for health officials; and

(C) developing public health surveillance systems to identify the disease outbreaks by monitoring ambulance calls, hospital admittance, and other measures;

(9) establish systems to notify members of the public and appropriate agencies when a threat has emerged and any precautions the public should take;

(10) establish programs that offer opportunities for members of the community to participate in terrorism preparation and prevention, including neighborhood watch groups; and

(11) design, review, and improve disaster response systems, enhancing communities' ability to coordinate efforts and share information, and devise and implement a homeland security plan.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be necessary to ensure that the grantee will use the proceeds of the grant in compliance with subsection (b).

(d) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated, and are appropriated, $10,000,000,000 for fiscal year 2003 to carry out this section, which shall remain available through September 30, 2004.

SEC. 5. BUDGET CRISIS RELIEF GRANTS.

(a) GRANTS AUTHORIZED.—From the amount appropriated under subsection (c) for fiscal year 2003, the Secretary of the Treasury (referred to in this section as the ''Secretary'') shall, as soon as practicable after the date of enactment of this Act, allocate financial assistance to each of the States as follows:

(1) GRANTS TO STATES.—

(A) ALLOCATIONS BASED ON POPULATION.—The Secretary shall allocate $7,500,000,000 among the States on the basis of the relative population of each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) ALLOCATIONS BASED ON UNEMPLOYMENT.—The Secretary shall allocate $7,500,000,000 among the States on the basis of the relative number of unemployed individuals for calendar year 2002 in each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(2) GRANTS TO LOCAL GOVERNMENT.—

(A) ALLOCATIONS BASED ON POPULATION.—The Secretary shall allocate an additional $7,500,000,000 among units of general local

government within each State on the basis of the relative population of each State and of each such unit within each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) ALLOCATIONS BASED ON UNEMPLOYMENT.—The Secretary shall allocate an additional $7,500,000,000 among units of general local government within each State on the basis of the relative number of unemployed individuals for calendar year 2002 in each State and in each such unit within each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(b) MAINTENANCE OF EFFORT.—A State or unit of general local government, before receiving the proceeds of a grant under this section, shall certify that such State or unit of general local government—

(1) will maintain its expenditures for elementary, secondary, and higher education at a level equal to not less than the level of such expenditures maintained by the State or unit of general local government for the fiscal year immediately preceding the fiscal year for which the grant is received; and

(2) will not raise the net tuition, after scholarships and tuition waivers, at public colleges and universities by more than the inflation rate.

(c) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated, and are appropriated, $30,000,000,000 for fiscal year 2003 to carry out this section.

SEC 6. TEMPORARY STATE FISCAL RELIEF THROUGH INCREASE IN MEDICAID FMAP.

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (f), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(c) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (f), if the FMAP determined without regard to this section for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2004, before the application of this section.

(d) GENERAL 2.45 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), for each State for the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (b) and (c)) shall be increased by 2.45 percentage points.

(e) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to subsection (g), with respect to the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 4.90 percent of such amounts.

(f) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(g) STATE ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (d) or an increase in a cap amount under subsection (e) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (d) or an increase in a cap amount under subsection (e) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(h) SUNSET DATE.—This section is repealed, effective October 1, 2004.

By Ms. MIKULSKI (for herself, Mr. BOND, Mr. KENNEDY, Mrs. LINCOLN, Mr. BREAUX, and Mr. DODD):

S. 566. A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; to the Committee on Health, Education, Labor, and Pensions.

Mr. MIKULSKI. Mr. President, I rise to introduce the Alzheimer's Disease Research, Prevention, and Care Act of 2003. I am pleased that Senators BOND, KENNEDY, LINCOLN, BREAUX, and DODD are joining me as original cosponsors of this legislation. This bill expands research on Alzheimer's disease at the National Institute on Aging and reauthorizes the Alzheimer's Demonstration Grant Program that helps patients and families get services like respite care and adult day care.

I believe that ''honor thy mother and father'' is not only a good commandment to live by, it's also a good policy to govern by. That's why I authored the Alzheimer's Disease Research, Prevention, and Care Act—to put values into action and get behind our Nation's families.

In 1998, the Federal Government was spending just $323 million on Alzheimer's disease research, a disease that affects about 4 million Americans. I fought for more funding for Alzheimer's disease and the National Institute on Aging. Not just an incremental increase—I fought to double the funding. I am proud that the National Institute on Aging was funded at $1 billion this year. That's double what it was 5 years ago. The Federal Government will spend more than $600 million on Alzheimer's research this year.

This investment in Alzheimer's disease research is paying off. Scientists have found evidence that a cholesterol-lowering drug may prevent Alzheimer's. Researchers are testing a vaccine on mice that may prevent the disease in humans. Seven clinical trials are currently underway to find out whether estrogen, vitamin E, gingko biloba, and aspirin can prevent the disease.

Even with these victories, there is still a lot more to do. Alzheimer's disease is a devastating illness. Four million Americans suffer from Alzheimer's, including one in ten people over age 65 and nearly half of those over age 85. Nineteen million Americans say they have a family member with the disease. The Medicare program alone spent $31.9 billion for the care of people with Alzheimer's disease in the year 2000. Without a cure, the number of Alzheimer's patients will more than triple in the next 50 years. Fourteen million Americans will suffer from Alzheimer's by 2050. If science can help delay the onset of Alzheimer's by even five years, it would improve the lives of millions of families and save billions of dollars.

This legislation is about more than just statistics—it's about helping to meet the day-to-day needs of patients with Alzheimer's and the long range needs of the nation. Last year, I chaired a hearing at the Gerontology Research Center at the Johns Hopkins Bayview Medical center in Baltimore. I heard from Peter Savage, a Baltimore man caring for his wife, Ina. Mrs. Savage was diagnosed with early onset Alzheimer's disease at just 53 years old. I heard Mr. Savage's pain and frustration as he told the Subcommittee on Aging about his family's long struggle: watching his wife's slow decline; trying to care for Mrs. Savage by himself and with the help of daughters; the difficulty of finding someone to help them when the caregiving responsibilities were more than the family alone could bear; and the looming costs of nursing home care.

The bill I am introducing gets behind families like the Savages and millions of others struggling with this disease. My bill reauthorizes and expands the Alzheimer's Demonstration grant Program. This program helps patients and families get support services like respite care and home health care. These

grants connect help states leverage private resources to fill in gaps in existing services and make sure that programs reach the most vulnerable families. This important program needs to be renewed this year. I'm fighting to expand this program to nearly every state, to keep our promises to America's families.

This bill also helps to meet the long-range needs of our Nation by increasing the Federal Government's commitment to Alzheimer's disease research at the National Institutes of Health and the National Institute on Aging. It puts the Alzheimer's Disease Prevention Initiative in our Federal law books to speed up the discovery of new ways to prevent the disease. My bill sets up a cooperative clinical research program to stretch our Federal research dollars, by making it easier for researchers across the country to share data and enroll patients in clinical trials. It also authorizes research on ways to improve the health of Alzheimer's caregivers—and ease some of their burden.

This bill gets behind our Nation's families—both in the lab and in the community. I look forward to working with my colleagues to pass this important legislation.

By Mr. LUGAR (by request):

S. 571. A bill to establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development.

This proposed legislation has been requested by the President of the United States, George W. Bush, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as to make any suggested amendments to it, as this important initiative of the President continues to be considered by the Committee on Foreign Relations.

I ask unanimous consent that the text of the bill be printed in the RECORD together with a section-by-section analysis of the bill and the letter from the President of the United States to the Congress of the United States dated February 5, 2003.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Millennium Challenge Act of 2003''.

TITLE I—THE MILLENNIUM CHALLENGE ACCOUNT

SEC. 101. STATEMENT OF POLICY.

It is the policy of the United States to reduce global poverty through increased economic growth by supporting a new compact for global development in which increased support is provided by developed countries to those developing countries that are ruling justly, fostering economic freedom, and investing in their citizens.

SEC. 102. ELIGIBILITY CRITERIA.

To be eligible for assistance under this Act, a country (''eligible country'')—

(1) must suffer from significant poverty;

(2) must have a demonstrated commitment to—

(A) Just and democratic governance, including political pluralism and the rule of law, and respect for human and civil rights of all citizens, protect private property rights, encourage transparency and accountability of governance, and limit corruption;

(B) Economic freedom, including economic policies that encourage citizens and firms to participate in the global product and capital markets, promote private sector growth, and avoid direct government participation in the economy; and

(C) Investing in its own people, including improving the availability of educational opportunities and health care for all citizens; and

(3) must have entered into a Millennium Challenge Contract, as defined in section 103, with the United States.

SEC. 103. MILLENNIUM CHALLENGE CONTRACT.

(a) IN GENERAL.—A Millennium Challenge Contract, is an agreement between the United States and an eligible country that establishes a multi-year plan of partnership for achieving shared development objectives in furtherance of the purposes of this Act.

(b) ELEMENTS.—The Millennium Challenge Contract shall contain—

(1) the specific objectives that the eligible country and the United States expect to achieve;

(2) the responsibilities of the eligible country and the United States in the achievement of those objectives;

(3) regular benchmarks to measure progress towards achieving the agreed upon objectives and a description of how the objectives will be sustained once assistance under this Millennium Challenge Contract ends;

(4) a plan and a timeframe that describes how and when those objectives will be met;

(5) the role and contribution of the business community, private and voluntary organizations, and other members of civil society in designing that plan and achieving the objectives;

(6) where appropriate, the contribution of other donors in the achievement of those objectives; and

(7) a plan to ensure financial accountability of funds used to achieve those objectives.

(c) LOCAL INPUT.—The Millennium Challenge Contract should take into account the perspectives of the rural and urban poor in an eligible country, and should reflect consultation with private and voluntary organizations, and the business community in the country.

(d) OTHER DONORS.—To the maximum extent feasible, activities undertaken to achieve the objectives of the Millennium Challenge Contract should be undertaken in coordination with the assistance activities of other donors.

SEC. 104. MILLENNIUM CHALLENGE ASSISTANCE.

The President is authorized to provide assistance for eligible countries to support policies and programs that are in furtherance of the purposes of this Act. The goal of the Millennium Challenge Account is to reduce poverty by significantly increasing the economic growth trajectory of recipient countries. This requires an emphasis on investments that raise the productive potential of a country's citizens and firms and help integrate its economy into the global product and capital markets. Key areas of focus for Millennium Challenge Assistance will include:

(a) Agricultural development;

(b) Education;

(c) Enterprise and private sector development;

(d) Governance;

(e) Health; and

(f) Trade and investment capability building.

SEC. 105. AUTHORIZATION OF THE MILLENNIUM CHALLENGE ACCOUNT AND AUTHORITIES.

(a) Authorization of Millennium Challenge Account.

(1) AUTHORIZATION.—There are authorized to be appropriated to the President to carry out this Act $1,300,000,000 for fiscal year 2004, and such sums as may be necessary for subsequent fiscal years.

(2) Availability—Funds appropriated under paragraph (1)—

(A) may be referred to as the ''Millennium Challenge Account'';

(B) are authorized to remain available until expended; and

(C) are in addition to funds otherwise available for such purposes.

(b) APPLICABILITY OF PROVISIONS OF LAW.—

(1) Funds made available to carry out the purposes of this Act may be made available notwithstanding any other provision of law, except the provisions of the Anti-Deficiency Act.

(2) Notwithstanding paragraph (l), country, including the government of a country, that is ineligible to receive assistance under provisions of law that would prohibit assistance under Part I of the Foreign Assistance Act of 1961 shall not be eligible to receive assistance under this Act. If the President waives the provisions of Part I of the Foreign Assistance Act of 1961, such country could receive assistance under this Act.

(c) USE OF OTHER FUNDS.—Any funds allocated from funds appropriated to carry out any other Act may be made available, if used in conjunction with funds appropriated to carry out this Act, under the authority and subject to the limitations applicable to funds made available to carry out this Act.

SEC. 106. EVALUATION AND ACCOUNT ABILITY.

All concluded Millennium Challenge Contracts and performance evaluations of activities under these contracts shall be made available to the public on the Internet, unless the Board makes a specific finding that a performance evaluation or contract should not be posted.

SEC. 107. GRADUATION.

The Millennium Challenge Contract will provide funds for limited purposes, projects, and terms.

TITLE II—THE MILLENNIUM CHALLENGE CORPORATION

SEC. 201. ESTABLISHMENT OF THE MILLENNIUM CHALLENGE CORPORATION.

(a) ESTABLISHMENT OF THE MILLENNIUM CHALLENGE CORPORATION.—There is hereby established in the executive branch, a corporation to be known as the Millennium Challenge Corporation (hereinafter in this Act referred to as the ''Corporation'').

(b) RESPONSIBILITY OF THE CORPORATION.—It shall be the responsibility of the Corporation to implement title I of this Act, consistent with the direction of the President.

SEC. 202. MANAGEMENT OF THE CORPORATION.

(a) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors (hereafter in this title referred to as the ''Board'') composed of the Secretary of State, who shall Chair, the Secretary of the Treasury, and the Director of the Office of Management and Budget, and may include individuals serving in such positions in an acting capacity.

(b) FUNCTIONS OF THE BOARD.—

(1) The Board shall direct the exercise of all the functions and powers of the Corporation, including the authority to review and approve the eligibility of countries for assistance.

(2) The Board may prescribe, amend, and repeal bylaws, rules, regulations, and procedures governing the manner in which the business of the Corporation may be conducted and in which the powers granted to it by law may be exercised and enjoyed.

(3) Members of the Board shall serve without additional compensation, but may be reimbursed for travel expenses, including per diem, in lieu of subsistence, while engaged in their duties on behalf of the Corporation.

(c) CHIEF EXECUTIVE OFFICER OF THE CORPORATION.—

(1) The chief executive officer of the Corporation (hereafter referred to in this title as the ''CEO'') shall be appointed by the President, by and with the advice and consent of the Senate, and shall exercise the functions and powers vested in the CEO by the President and the Board.

(2) The CEO shall receive compensation at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(d) Functions of, and actions by, the Corporation, Board, CEO, or an officer of the United States under this Act are vested in their discretion.

SEC. 203. FUNCTIONS OF THE CORPORATION.

In order to carry out programs in furtherance of the purposes and policies of this Act, and in accordance with the provisions of Title I of this Act, the Corporation may make grants for any eligible country, including to any private or public entity, and including for the purpose of providing technical assistance to any such country for the development of the Millennium Challenge Contract and the management, including financial management, and evaluation of programs for which assistance is provided pursuant to this Act.

SEC. 204. POWERS OF THE CORPORATION.

(A) POWERS.—The Corporation—

(1) shall have perpetual succession unless dissolved by the Act of Congress;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may prescribe, amend, and repeal such rules, regulations, and procedures as may be necessary for carrying out the functions of the Corporation;

(4) may make and perform such contracts, grants, and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation and all Millennium Challenge Contracts;

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding $95,000 in any fiscal year;

(6) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Corporation;

(7) may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act;

(8) may use the United States mails in the same manner and on the same conditions as the executive departments of Government;

(9) may, with the consent of the agency of the United States, use the information, services, facilities, and personnel of that agency on a full or partial reimbursement or on a non-reimbursable basis in carrying out the purposes of this Act;

(10) may contract with individuals for personal services, who shall not be considered federal employees for any provision of law administered by the Office of Personnel Management;

(11) hire or obtain passenger motor vehicles; and

(12) shall have such other powers as may be necessary and incident to carrying out this Act;

(b) PRINCIPAL OFFICE.—

(1) The Corporation shall maintain its principal office in the metropolitan Washington, D.C. area.

(2) The Corporation may establish other offices in any place including places outside the United States, in the Corporation may carry on all or any of its operations and business.

(c) POSITIONS WITH FOREIGN GOVERNMENTS.—When approved by the Corporation, in furtherance of its purposes, employees of the Corporation (including individuals detailed to the Corporation) may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries or international organizations.

(d) COMMITMENT AUTHORITY.—Subject to the provisions of the Anti-Deficiency Act, a contract, grant, or other agreement which entails commitments for the expenditure of funds available under this Act may commit with expenditures for such period of time as it deemed necessary to carrying out this Act.

(e) CONTRACTING AUTHORITY.—In furtherance of the purposes of this Act, functions and powers authorized by this Act may be performed without regard to any provision of law regulating the making, performance, amendment, or modification of contracts, grants, and other agreements.

(f) TAXATION OF THE CORPORATION.—The Corporation, including all its assets and property, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

SEC. 205. PERSONNEL AND ADMINISTRATIVE AUTHORITIES.

(a) PERSONNEL AUTHORITIES.—Notwithstanding any provision of title 5, United States Code or of the Foreign Service Act of 1980, as amended, the CEO of the Millennium Challenge Corporation may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system, including a retirement benefits programs.

(1) Any system established under this subsection shall not waive, modify, or otherwise affect, with respect to Civil Service and Foreign Service employees—

(A) the public employment principles of merit and fitness set forth in section 2301 of title 5, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other non-merit considerations, equal pay for equal work, and protection of employees against reprisal for whistle blowing,

(B) section 2302 (b) of title 5,

(C) chapters 72 and 73 of title 5,

(D) the conflict of interest provisions in title 18, chapter 11 of the United States Code.

(2) The CEO of the Corporation may, without regard to the civil service and foreign service laws and regulations, appoint and terminate personnel as may be necessary to enable the Corporation to perform its duties.

(3) The CEO may fix the compensation of the Corporation personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, and without regard to the provisions of chapters 4 and 5 of the Foreign Service Act, relating to the classification of positions and Foreign Service pay rates.

(4) The Corporation may utilize such authority contained in the Foreign Service Act of 1980, as amended, as the Corporation deems appropriate.

(5) The CEO and other personnel who are employees of the Corporation shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63 (relating to leave), 81 (relating to compensation for work injuries), 85 (relating to unemployment benefits), 87 (relating to life insurance benefits), 89 (relating to health insurance benefits), and 90 (relating to long-term care insurance) of that title. If the CEO chooses not to waive chapters 83 and 84 (relating to retirement benefits) of title 5, or chapter 8 of the Foreign Service Act (relating to Foreign Service retirement systems), employees of the Corporation shall be eligible for benefits under those chapters as otherwise applicable.

(6) No individual, except for the officers of the Corporation, may be employed by the Corporation for a period in excess of 5 years: *Provided*, That the CEO, under special circumstances, may approve an extension of the length of employment on an individual basis.

(7) Individuals employed by the Corporation, including individuals detailed to or contracted by the Corporation, while performing duties in any country or place outside the United States, and their families shall, if they are nationals of or permanently resident in such country or place, enjoy the privileges and immunities of at least the administrative and technical staff of the Mission of the United States to such country and shall be subject to 22 U.S.C. 3927 in the same manner as United States Government employees.

(8) The CEO may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(b) DETAIL OF PERSONNEL TO THE CORPORATION.—

(1) Any Federal Government employee may be detailed to the Corporation on a fully or partially reimbursable or on a nonreimbursable basis, and such detail shall be without interruption or loss of civil service or Foreign Service status or privilege.

(2) Alternatively, an employee serving under a career or career conditional appointment or the equivalent in an agency who transfers to or converts to an appointment in the Corporation with the consent of the head of the agency is entitled to be returned to the employee's former position or a position of like seniority, status, and pay without grade or pay reduction in the agency if the employee—

(A) is being separated from the Corporation for reasons other than misconduct, neglect of duty, or malfeasance; and (B) applies for return not later than 30 days before the date of the termination of the employment in the Corporation.

(3) An employee of a private sector organization assigned to the Corporation under this section is deemed, during the period of

assignment, to be on detail to such agency. Such employee—

(A) may continue to receive pay and benefits from the private sector organization from which he is assigned;

(B) is deemed to be an employee of the Corporation as specified in (a)(5) of this section, for the purposes of chapters 81 and 85 of title 5 U.S.C.;

(C) may not have access to any trade secrets or to any other non-public information which is of commercial value to the private sector organization from which he is assigned, and

(D) is subject to such regulations as the President may prescribe. Such assignment may be made with or without reimbursement by the Corporation for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to its employee benefit system. A private sector organization may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to the Corporation.

(c) ALLOCATION OF FUNDS.—

(1) TRANSFER OR ALLOCATION.—The Corporation may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act. Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(2) USE OF SERVICES.—For carrying out the purposes of this Act, the Corporation may utilize the services and facilities of, or procure commodities from, any agency of the United States Government under such terms and conditions as may be agreed to by the head of such agency and the Corporation.

(d) OTHER AUTHORITIES.—Except where inconsistent with the provisions of this Act, the Corporation is authorized to use any of the administrative authorities contained in the State Department Basic Authorities Act of 1956 and the Foreign Assistance Act of 1961.

(e) GOVERNMENT CORPORATION CONTROL ACT.—The Corporation shall be subject to the provisions of the Government Corporation Control Act, title 31, United States Code.

MILLENNIUM CHALLENGE ACT OF 2003

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the ''Millennium Challenge Act of 2003''.

TITLE I—THE MILLENNIUM CHALLENGE ACCOUNT

Sec. 101. Statement of policy

Section 101 states the objective of the Millennium Challenge Account, which is to reduce poverty through promoting sustained economic growth in developing countries committed to implementing good policies.

Sec. 102. Eligibility criteria

Section 102 identifies the criteria by which countries will be eligible to receive Millennium Challenge Account (MCA) assistance funds. MCA assistance will go to:

Very poor countries. It is currently anticipated that in FY 2004, countries eligible for MCA funds will be those that are currently eligible to borrow from the International Development Association (IDA) and which have per capita incomes below $1,435 (the historical IDA ''cutoff'' for aid). In FY 2005, all countries with per capita incomes below $1,435 will be eligible for MCA assistance. In FY 2006, the list of eligible countries further expands to those with per capita incomes up to $2,975 (the current World Bank cutoff for lower middle income countries). The per capita income levels will be adjusted on an annual basis.

Countries with a demonstrated commitment to ruling justly, encouraging economic freedom, and investing in their people. To assess this commitment and identify recipient countries, the MCA will use clear, concrete, and objective criteria. It is the Administration's intent that in 2004, countries will be selected based on 16 indicators chosen because of the relative quality and objectivity of their data, country coverage, public availability, and correlation with growth and poverty reduction. The specific indicators are listed below with their source noted.

Governing Justly:

Civil Liberties (Freedom House);

Political Rights (Freedom House);

Voice and Accountability (World Bank Institute);

Government Effectiveness (World Bank Institute);

Rule of Law (World Bank Institute); and

Control of Corruption (World Bank Institute).

Investing in People:

Public Primary Education Spending as Percent of Gross Domestic Product (GDP) (World Bank/national sources);

Primary Education Completion Rate (World Bank/national sources);

Public Expenditures on Health as Percent of GDP (World Bank/national sources); and

Immunization Rates: DPT (diphtheria, pertussis, tetanus) and Measles (World Bank/UN/national sources).

Promoting Economic Freedom:

Country Credit Rating (Institutional Investor Magazine);

Inflation (International Monetary Fund [IMF]);

3-Year Budget Deficit (IMF/national sources);

Trade Policy (Heritage Foundation);

Regulatory Quality (World Bank Institute); and

Days to Start a Business (World Bank).

Countries that have signed a Millennium Challenge Contract with the United States. The terms of this contract are defined in Section 103 below.

Sec. 103. Millennium challenge contract

Section 103 specifies the contractual relationship between recipient nations and the United States. Each MCA country will negotiate and sign a Millennium Challenge Contract with the Millennium Challenge Corporation (MCC), established in Title II. To initiate the negotiation, the selected MCA countries will submit country proposals for MCA funds which integrate official interests with those of the private sector and civil society.

The negotiated Millennium Challenge Contracts will include a limited number of clear and measurable objectives, regular benchmarks to measure progress toward achieving the objectives, a plan and a timeframe describing how and when the objectives will be met. Each contract will state the responsibilities of the recipient country and the United States, and describe the role and contributions of non-governmental entities including other donors as appropriate. In addition, all contracts will provide for the financial accountability of MCA funds.

Sec. 104. Millennium challenge assistance

Section 104 authorizes the President to provide assistance for activities that contribute to the achievement of the objectives specified in the contract. These activities will drive productivity and economic growth in MCA countries. Areas of focus for the MCA include agricultural development, education, enterprise and private sector promotion, good governance, health, and trade and investment capacity building.

Sec. 105. Authorization of the millennium challenge account and authorities

Section 105 authorizes appropriations to the President of $1.3 billion in FY 2004 to carry out the MCA and such sums as may be necessary for subsequent fiscal years. It is anticipated that funding for MCA will reach $5 billion by FY 2006. MCA funds will be available until expended (''no-year funds''). This availability of funds allows the Corporation to obligate funds in the most productive manner.

Section 105 allows the provision of MCA assistance to countries notwithstanding any other provision of law with the exception of prohibiting MCA assistance to countries that are ineligible to receive assistance under part I of the Foreign Assistance Act of 1961. This provision restricts or prohibits assistance to countries that engage in actions prohibited in part I, including countries that: violate human rights, support trafficking in narcotics or human beings, and contribute to terrorist financing. If the President waives any of these provisions to make a country eligible to receive assistance under part I of the Foreign Assistance Act, then that country also would be eligible to receive MCA assistance. MCA assistance would be subject to the provisions of the Anti-Deficiency Act.

In addition, section 105 makes the authorities and limitations that are applicable to MCA assistance applicable, as well, to any other funds used in conjunction with MCA funds.

Sec. 106. Evaluation and accountability

Section 106 requires the Millennium Challenge Corporation, established in Title II, to make all concluded Millennium Challenge Contracts and their formal performance evaluations publicly available on the Internet. The public nature of MCA performance information makes the recipient countries and implementers of MCA programs directly accountable to the citizens of MCA countries and United States taxpayers.

Sec. 107. Graduation

Participation in the MCA will be limited according to the terms of the Millennium Challenge Contracts, which will define the purposes, activities and timeframe. MCA assistance will have a clearly defined end date. For example, at the conclusion of the contract period, MCA assistance will end unless participant countries submit a new proposal and renegotiate a new contract with the Corporation. Each contract will also specify the conditions under which the contract will be amended or terminated, including for reasons of poor performance.

TITLE II—THE MILLENNIUM CHALLENGE CORPORATION

Sec. 201. Establishment of the millennium challenge corporation

Section 201 establishes an independent U.S. Government Corporation that will implement the MCA according to provisions of Title I of this Act.

Sec. 202. Management of the corporation

Section 202 establishes a board of directors for the Corporation that will be chaired by the Secretary of State and include the Secretary of the Treasury, and the Director of the Office of Management and Budget. Individuals serving in these positions in an acting capacity may serve on the Board. The Board will direct the exercise of all functions and powers of the Corporation, and shall make the final decision on the eligibility and selection of MCA countries.

The position of the CEO of the Corporation will be a Senate-confirmed Presidential appointment. The CEO's compensation is fixed at the equivalent of a deputy secretary of a department of level II of the Executive Schedule.

Sec. 203. Functions of the corporation

Section 203 authorizes the Corporation to make grants to any private or public entity to carry out the Millennium Challenge Contracts, to provide technical assistance to develop or carry out the Contracts, and to provide for the financial management and evaluation of MCA programs.

Sec. 204. Powers of the corporation

Section 204 provides general powers to the MCC to enable it to conduct business operations. The principal office of the MCC is to be established in the Washington, D.C. metropolitan area. The MCC also has the authority to establish overseas offices as it sees fit. Employees of the MCC, and individuals detailed to the MCC, are provided the authority to hold offices with foreign governments, foreign government agencies, or international organizations, so long as no compensation is paid to such employees or individuals by the foreign entity or international organization. Contracts and other commitments of funds may make commitments for the expenditure of funds for such period of time as the MCC deems necessary. This section also provides discretion to the MCC with regard to the making, performance, amendment, or modification of contracts, grants, and other agreements. Finally, this section provides that the MCC and its assets and property are to be exempt from taxation by the United States or by any State or local taxing authority.

Sec. 205. Personnel and administrative authorities

Section 205 authorizes the CEO of the MCC, in coordination with the Director of the Office of Personnel Management, to establish a human resources management system for the Corporation, including a retirement benefits program. However, provisions of title 5 of the United States Code related to anti-discrimination, merit systems principles, whistle blowing, and conflicts of interest, are specifically made applicable to the MCC. Employees of the MCC are considered Federal employees for purposes of leave benefits, workers compensation, unemployment benefits, life insurance, health insurance, and long-term care insurance.

Section 205 also provides the authorities for detailing U.S. government employees and private sector staff to the Corporation. Federal employees have two options for serving in the Corporation. They may be detailed on a reimbursable or nonreimburseable basis without interruption of their civil service status and privileges. Alternatively, they may resign from their home agency and retain employment rights. Private sector organizations may also detail staff to the MCC, while continuing to pay those employees pay and benefits.

The Corporation has the authority to allocate or transfer money to other agencies; use the services and facilities of any U.S. agency under agreed upon terms; and use any of the administrative authorities contained in the State Department Basic Authorities Act of 1956 and the Foreign Assistance Act of 1961.

Section 205 also makes the provisions of the Government Corporation Control act applicable to the MCC.

To the Congress of the United States:

I am pleased to transmit a legislative proposal to establish the Millennium Challenge Account and the Millennium Challenge Corporation. Also transmitted is a section-by-section analysis.

The Millennium Challenge Account (MCA) represents a new approach to providing and delivering development assistance. This new compact for development breaks with the past by tying increased assistance to performance and creating new accountability for all nations. This proposal implements my commitment to increase current levels of core development assistance by 50 percent over the next 3 years, thus providing an annual increase of $5 billion by fiscal; year 2006. To be eligible for this new assistance, countries must demonstrate commitment to three standards—ruling justly, investing in their people, and encouraging economic freedom. Given this commitment, and the link between financial accountability and development success, special attention will be given to fighting corruption.

The goal of the Millennium Challenge Account initiative is to reduce poverty by significantly increasing economic growth in recipient countries through a variety of targeted investments. The MCA will be administered by a new, small Government corporation, called the Millennium Challenge Corporation, designed to support innovative strategies and to ensure accountability for measurable results. The Corporation will be supervised by a Board of Directors chaired by the Secretary of State and composed of other Cabinet-level officials. The Corporation will be led by a Chief Executive Officer appointed by the President, by and with the advice and consent of the Senate. This proposal provides the Corporation with flexible authorities to optimize program implementation, contracting, and personnel selection while pursuing innovative strategies.

The Millennium Challenge Account initiative recognizes the need for country ownership, financial oversight, and accountability for results to ensure effective assistance. We cannot accept permanent poverty in a world of progress. The MCA will provide people in developing nations the tools they need to seize the opportunities of the global economy. I urge the prompt and favorable consideration of this legislation.

GEORGE W. BUSH.

THE WHITE HOUSE *February 5, 2003.*

By Mr. FRIST:

S. 572. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. DODD, and Mr. ENZI):

S. 573. A bill to amend the Public Health Service Act to promote organ donation, and for other purposes; to the Committee on Health, Education, Labor and Pensions.

Mr. FRIST. Mr. President, this year, due to the rapid and tremendous advancements in our knowledge and in the science of organ transplantation, thousands of Americans will receive a life-saving organ transplant. These advances have allowed us to save the lives of patients who were once not considered candidates for transplantation.

As a heart and lung transplant surgeon, I have had the opportunity to watch the field develop and grow over the past three decades. I remember my own experiences—of conducting some of the first transplants using hearts and lungs—and recognize our tremendous progress since that time. And I also know the hundreds of my own patients who live improved lives due to advances in transplantation.

But I have also shared in the grief of patients who died before they could receive a transplant—a direct result of a large and growing shortage of organ donors. Medical advances have produced a staggering increase in the number of eligible transplant candidates, while the supply of organs fails to keep pace. Today, more than 80,000 patients await a transplant (a four-fold increase from just over a decade ago). At the same time, more patients die each year before they can receive that life-saving organ.

I have also witnessed firsthand how great, lifesaving hope can spring from great tragedy. Earlier this year, I offered my assistance at the scene of a horrible automobile accident in Florida. Most of the family in the accident died—including two young children. While my heart goes out to his family for their terrible loss, from this tragedy has come new life. This family agreed to donate the organs of their loved ones. This gift has saved the life of a boy from the Virgin Islands. We must honor this family, and all other donor families, by redoubling our efforts to increasing organ donation.

There is no need for people to die while awaiting a new organ. In my practice, I carried a card that listed my patients who were waiting on hearts—always aware that several of them would die before a live-saving organ would become available. It was this needless loss of life that was the most painful, most frustrating and most disappointing part of my work.

In 2000, there were almost 23,000 transplants—a significant increase over the roughly 13,000 transplant performed in 1988. Between 1990 and 2001, the number of organ donors almost doubled, mainly as a result of an increase in organs from live donors. In fact, over those ten years, the number of cadaveric donors increased only 35 percent while the demand for transplant has more than tripled.

More must be done. There are simply not enough organ donors; public awareness has not kept up with the rapid advances of transplantation. It is our duty to do all we can to raise awareness about the gift of life.

We must do is work to encourage all Americans to share their desire to be an organ donor with their families.

We must find other ways to improve organ donation—to identify eligible organs and work with families to help them better understand the value of donation. This is a new science—one that I have had the privilege of watching firsthand grow from theories and experiments to accepted medical practice. My mentor, Dr. Norman Shumway, was one of the leaders in the field; and the advent of cyclosporin was critical to its progress. But much remains to be learned, and we must continue to move forward.

That is why one of my first priorities when I came to the Senate in 1995 was

to establish the Congressional Task Force on Organ Donation—to promote awareness of this important issue and encourage a new dialogue seeking answers.

Recent years have witnessed a new emphasis on highlighting public awareness of this need. In particular, I commend Secretary Thompson for making organ donation a top priority at the Department of Health and Human Services.

There also are a number of complementary legislative approaches that we should pursue towards this end.

We should provide funding for innovative and bold demonstration projects to improve donation and recovery rates. As part of this, we should ensure that the projects' results will be evaluated quickly and their lessons be disseminated broadly.

We should provide for the placement and evaluation of organ donation coordinators in hospitals—a model that has worked with success in other countries.

We should expand the authority of the Agency for Healthcare Research and Quality to conduct important research on the recovery, preservation and transportation of organs. The science of organ transplantation has been improved and refined since its inception. Yet all too often, organ donation efforts are conducted under the same practices as they were twenty years ago. We must establish a strong evidence-based approach to enhancing organ donation and recovery.

We must encourage living organ donation by reducing potential financial disincentives facing living donors through the reimbursement of travel and other expenses incurred by living donors and their families.

We must also seriously evaluate the long-term health effects of serving as a living donor by asking the Institute of Medicine to report on this issue and by establishing a living donor registry to track the health of individuals who have served as living organ donors.

We must seriously examine and improve the role of organ donor registries. These programs have an important role to play in improving organ donation rates and have been used with different levels of success in some states. However, a number of questions surrounding registries remain unanswered and their effectiveness has not been fully evaluated.

We must undertake a high-level systematic examination of the effectiveness of a range of organ donation approaches. Specifically, the Institute of Medicine should evaluate practices or organ procurement organizations, States, and other countries. This study should examine existing barriers to organ donation, as well as best donation and recovery practices, such as mandated choice and presumed consent. The study should evaluate consent practices, existing state routine notification laws, and the impact of requests for consent where registry listing constitutes express consent under State law. This review should be timely and include recommendations for action necessary to replicate the best practices identified and to otherwise increase organ donation rates.

We must recognize and honor the sacrificial decisions to give consent and give the gift of life made each year by thousands of donors and families. We must do this in such a way as to honor those sharing life through donation and increase public awareness of this issue.

These initiatives are contained within two important pieces of legislation I am introducing today.

The Organ Donation and Recovery Improvement Act is a bipartisan, comprehensive bill that seeks to improve the overall process of organ donation and recovery, enhance our knowledge base in these fields, encourage novel approaches to this growing problem and increase the number of organs available for transplants each year. The bill also seeks to remove potential barriers to donation, while identifying and focusing on best practices in organ donation. I thank Senator CHRISTOPHER DODD and Senator MIKE ENZI for their assistance on this important bill. I also want to thank the wide range of patient and organ transplantation organizations who have done good work on this bill, including the American Society of Transplantation, American Society of Transplant Surgeons, North American Transplant Coordinators Organization, Tennessee Donor Services, New Mexico Donor Services, and Golden State Donor Services.

The Gift of Life Congressional Medal Act will make each donor or donor family eligible to receive a commemorative Congressional medal. This legislation, which does not cost taxpayers a penny, will recognize the thousands of individuals each year who share the gift of life through organ donation. Moreover, it will encourage potential donors and enhance public awareness of the importance of organ donation to the over 80,000 Americans waiting for a transplant. Representative PETE STARK will soon be introducing the companion bill in the House of Representatives, and I thank him for his dedication in this area.

Organ donation is one of the most important issues before us today. Each year, thousands of donors and families make the important decision to give consent and give the gift of life. We must recognize and honor their sacrifice, and, in so honoring, work to increase donation rates and allow more families to receive this gift of life each year. Hundreds of my own patients are alive today because of this gift. Let us work together to allow more patients and families to experience this miracle.

I ask unanimous consent that the text of the bills printed in the RECORD.

S. 572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Gift of Life Congressional Medal Act of 2003''.

SEC. 2. CONGRESSIONAL MEDAL.

The Secretary of the Treasury shall design and strike a bronze medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury, to commemorate organ donors and their families.

SEC. 3. ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—Any organ donor, or the family or family member of any organ donor, shall be eligible for a medal described in section 2.

(b) DOCUMENTATION.—The Secretary of Health and Human Services shall direct the entity holding the Organ Procurement and Transplantation Network (hereafter in this Act referred to as ''OPTN'') to contract to—

(1) establish an application procedure requiring the relevant organ procurement organization, as described in section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1)), through which an individual or their family made an organ donation, to submit to the OPTN contractor documentation supporting the eligibility of that individual or their family to receive a medal described in section 2; and

(2) determine, through the documentation provided, and, if necessary, independent investigation, whether the individual or family is eligible to receive a medal described in section 2.

SEC. 4. PRESENTATION.

(a) DELIVERY TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of the Treasury shall deliver medals struck pursuant to this Act to the Secretary of Health and Human Services.

(b) DELIVERY TO ELIGIBLE RECIPIENTS.—The Secretary of Health and Human Services shall direct the OPTN contractor to arrange for the presentation to the relevant organ procurement organization all medals struck pursuant to this Act to individuals or families that, in accordance with section 3, the OPTN contractor has determined to be eligible to receive medals under this Act.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), only 1 medal may be presented to a family under subsection (b). Such medal shall be presented to the donating family member, or in the case of a deceased donor, the family member who signed the consent form authorizing, or who otherwise authorized, the donation of the organ involved.

(2) EXCEPTION.—In the case of a family in which more than 1 member is an organ donor, the OPTN contractor may present an additional medal to each such organ donor or their family.

SEC. 5. DUPLICATE MEDALS.

(a) IN GENERAL.—The Secretary of Health and Human Services or the OPTN contractor may provide duplicates of the medal described in section 2 to any recipient of a medal under section 4(b), under such regulations as the Secretary of Health and Human Services may issue.

(b) LIMITATION.—The price of a duplicate medal shall be sufficient to cover the cost of such duplicates.

SEC. 6. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of section 5111 of title 31, United States Code.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

SEC. 8. SOLICITATION OF DONATIONS.

(a) IN GENERAL.—The Secretary of the Treasury may enter into an agreement with the OPTN contractor to collect funds to offset expenditures relating to the issuance of medals authorized under this Act.

(b) PAYMENT OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), all funds received by the Organ Procurement and Transplantation Network under subsection (a) shall be promptly paid by the Organ Procurement and Transplantation Network to the Secretary of the Treasury.

(2) LIMITATION.—Not more than 5 percent of any funds received under subsection (a) shall be used to pay administrative costs incurred by the OPTN contractor as a result of an agreement established under this section.

(c) NUMISMATIC PUBLIC ENTERPRISE FUND.—Notwithstanding any other provision of law—

(1) all amounts received by the Secretary of the Treasury under subsection (b)(1) shall be deposited in the Numismatic Public Enterprise Fund, as described in section 5134 of title 31, United States Code; and

(2) the Secretary of the Treasury shall charge such fund with all expenditures relating to the issuance of medals authorized under this Act.

(d) START-UP COSTS.—A 1-time amount not to exceed $55,000 shall be provided to the OPTN contractor to cover initial start-up costs. The amount will be paid back in full within 3 years of the date of the enactment of this Act from funds received under subsection (a).

(e) NO NET COST TO THE GOVERNMENT.—The Secretary of the Treasury shall take all actions necessary to ensure that the issuance of medals authorized under section 2 results in no net cost to the Government.

SEC. 9. DEFINITIONS.

In this Act:

(1) ORGAN.—The term ''organ'' means the human kidney, liver, heart, lung, pancreas, and any other human organ (other than corneas and eyes) specified by regulation of the Secretary of Health and Human Services or the OPTN contractor.

(2) ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.—The term ''Organ Procurement and Transplantation Network'' means the Organ Procurement and Transplantation Network established under section 372 of the Public Health Service Act (42 U.S.C. 274).

SEC. 10. SUNSET PROVISION.

This Act shall be effective during the 5-year period beginning on the date of the enactment of this Act.

S. 573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Organ Donation and Recovery Improvement Act''.

TITLE I—ORGAN DONATION AND RECOVERY

SEC. 101. INTERAGENCY TASK FORCE ON ORGAN DONATION.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended—

(1) by redesignating section 378 (42 U.S.C. 274g) as section 378E; and

(2) by inserting after section 377 (42 U.S.C. 274f) the following:

''SEC. 378. INTER-AGENCY TASK FORCE ON ORGAN DONATION AND RESEARCH.

''(a) IN GENERAL.—The Secretary shall establish an inter-agency task force on organ donation and research (referred to in this section as the 'task force') to improve the coordination and evaluation of—

''(1) federally supported or conducted organ donation efforts and policies; and

''(2) federally supported or conducted basic, clinical and health services research (including research on preservation techniques and organ rejection and compatibility).

''(b) COMPOSITION.—

''(1) IN GENERAL.—The task force shall be composed of—

''(A) the Surgeon General, who shall serve as the chairperson; and

''(B) representatives to be appointed by the Secretary from relevant agencies within the Department of Health and Human Services (including the Health Resources and Services Administration, Centers for Medicare & Medicaid Services, National Institutes of Health, and Agency for Healthcare Research and Quality).

''(2) OTHER EX OFFICIO MEMBERS.—The Secretary shall invite the following individuals to serve as ex officio members of the task force:

''(A) A representative from the Department of Transportation.

''(B) A representative from the Department of Defense.

''(C) A representative from the Department of Veterans Affairs.

''(D) A representative from the Office of Personnel Management.

''(E) A physician representatives from the board of directors of the Organ Procurement and Transplantation Network.

''(F) Representatives of other Federal agencies or departments as determined to be appropriate by the Secretary.

''(c) ANNUAL REPORT.—In addition to activities carried out under subsection (a), the task force shall support the development of the annual report under section 378D(c).

''(d) TERMINATION.—The task force may be terminated at the discretion of the Secretary following the completion of at least 2 annual reports under section 378D(c). Upon such termination, the Secretary shall provide for the on-going coordination of federally supported or conducted organ donation and research activities.''.

SEC. 102. DEMONSTRATION PROJECTS, EDUCATION, AND PUBLIC AWARENESS.

Part H of title III of the Public Health Service Act (42 U.S.C 273 et seq.) is amended by inserting after section 378, as added by section 101, the following:

''SEC. 378A. DEMONSTRATION PROJECTS, EDUCATION, AND PUBLIC AWARENESS.

''(a) GRANTS TO INCREASE DONATION RATES.—The Secretary shall award peer-reviewed grants to public and non-profit private entities, including States, to carry out studies and demonstration projects to increase organ donation and recovery rates, including living donation.

''(b) ORGAN DONATION PUBLIC AWARENESS PROGRAM.—The Secretary shall establish a public education program in cooperation with existing national public awareness campaigns to increase awareness about organ donation and the need to provide for an adequate rate of such donations.

''(c) DEVELOPMENT OF CURRICULA AND OTHER EDUCATION ACTIVITIES.—

''(1) IN GENERAL.—The Secretary, in coordination with the Organ Procurement and Transplantation Network and other appropriate organizations, shall support the development and dissemination of model curricula to train health care professionals and other appropriate professionals (including religious leaders in the community, funeral directors, and law enforcement officials) in issues surrounding organ donation, including methods to approach patients and their families, cultural sensitivities, and other relevant issues.

''(2) HEALTH CARE PROFESSIONALS.—For purposes of subparagraph (A), the term 'health care professionals' includes—

''(A) medical students, residents and fellows, attending physicians (through continuing medical education courses and other methods), nurses, social workers, and other allied health professionals; and

''(B) hospital- or other health care-facility based chaplains; and

''(C) emergency medical personnel.

''(d) LIMITED DEMONSTRATION PROJECTS.—

''(1) REPORTS.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report evaluating the ethical implications of proposals for demonstration projects to increase cadaveric donation.

''(2) AUTHORITY.—Notwithstanding section 301 of the National Organ Transplant Act (42 U.S.C. 274e), upon the submission of and consistent with the report by the Secretary under paragraph (1), the Secretary may conduct up to 3 demonstration projects to increase cadaveric donation.

''(3) DURATION.—Each project shall last no more than 3 years, and shall be conducted in a limited number of sites or areas.

''(4) REVIEW.—The Secretary shall provide for the ongoing ethical review and evaluation of such projects to ensure that such projects are administered effectively as possible and in accordance with the stated purpose of this subsection under paragraph (2).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008.

''SEC. 378B. GRANTS REGARDING HOSPITAL ORGAN DONATION COORDINATORS.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary may award grants to qualified organ procurement organizations under section 371 to establish programs coordinating organ donation activities of eligible hospitals and qualified organ procurement organizations under section 371. Such activities shall be coordinated to increase the rate of organ donations for such hospitals.

''(2) ELIGIBLE HOSPITAL.—For purposes of this section, an eligible hospital is a hospital that performs significant trauma care, or a hospital or consortium of hospitals that serves a population base of not fewer than 200,000 individuals.

''(b) ADMINISTRATION OF COORDINATION PROGRAM.—A condition for the receipt of a grant under subsection (a) is that the applicant involved agree that the program under such subsection will be carried out jointly—

''(1) by representatives from the eligible hospital and the qualified organ procurement organization with respect to which the grant is made; and

''(2) by such other entities as the representatives referred to in paragraph (1) may designate.

''(c) EVALUATIONS.—Within 3 years after the award of grants under this section, the Secretary shall ensure an evaluation of programs carried out pursuant to subsection (a) in order to determine the extent to which the programs have increased the rate of organ donation for the eligible hospitals involved. Such evaluation shall include recommendations on whether the program should be expanded to include other grantees, such as hospitals.

''(d) MATCHING REQUIREMENT.—The Secretary may not award a grant to a qualifying organ donation entity under this section unless such entity agrees that, with respect to costs to be incurred by the entity in carrying out activities for which the grant was awarded, the entity shall contribute (directly or through donations from public or private entities) non-Federal contributions in cash or in kind, in an amount equal to not less than 30 percent of the amount of the grant awarded to such entity.

''(e) FUNDING.—For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for fiscal year 2004,

and such sums as may be necessary for each of fiscal years 2005 through 2008.''.

SEC. 103. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.

Part H of title III of the Public Health Service Act (42 U.S.C 273 et seq.) is amended by inserting after section 378B, as added by section 102, the following:

''SEC. 378C. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.

''(a) DEVELOPMENT OF SUPPORTIVE INFORMATION.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the Agency for Healthcare Research and Quality shall develop scientific evidence in support of efforts to increase organ donation and improve the recovery, preservation, and transportation of organs.

''(b) ACTIVITIES.—In carrying out subsection (a), the Secretary shall—

''(1) conduct or support evaluation research to determine whether interventions, technologies, or other activities improve the effectiveness, efficiency, or quality of existing organ donation practice;

''(2) undertake or support periodic reviews of the scientific literature to assist efforts of professional societies to ensure that the clinical practice guidelines that they develop reflect the latest scientific findings;

''(3) ensure that scientific evidence of the research and other activities undertaken under this section is readily accessible by the organ procurement workforce; and

''(4) work in coordination with the appropriate professional societies as well as the Organ Procurement and Transplantation Network and other organ procurement and transplantation organizations to develop evidence and promote the adoption of such proven practices.

''(c) RESEARCH, DEMONSTRATIONS, AND TRAINING.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the Agency for Healthcare Research and Quality, as appropriate, shall provide support for research, demonstrations, and training as appropriate, to—

''(1) develop a uniform clinical vocabulary for organ recovery;

''(2) apply information technology and telecommunications to support the clinical operations of organ procurement organizations;

''(3) enhance the skill levels of the organ procurement workforce in undertaking quality improvement activities; and

''(4) assess specific organ recovery, preservation, and transportation technologies.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.''.

SEC. 104. REPORTS.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 378C, as added by section 103, the following:

''SEC. 378D. REPORTS.

''(a) IOM REPORT ON BEST PRACTICES.—

''(1) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine to conduct an evaluation of the organ donation practices of organ procurement organizations, States, other countries, and other appropriate organizations.

''(2) CONSIDERATIONS.—In conducting the evaluation under paragraph (1), the Institute of Medicine shall examine—

''(A) existing barriers to organ donation, including among minority populations; and

''(B) best donation and recovery practices, including—

''(i) mandated choice and presumed consent;

''(ii) organ procurement organization and provider consent practices (including consent best practices);

''(iii) the efficacy and reach of existing State routine notification laws with respect to organ procurement organizations;

''(iv) the impact of requests for consent in States where registry registration constitutes express consent under State law; and

''(v) recommendations with respect to achieving higher donation rates, including among minority populations.

''(3) REPORT.—Not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit to the Secretary a report concerning the evaluation conducted under this subsection. Such report shall include recommendations for administrative actions and, if necessary, legislation in order to replicate the best practices identified in the evaluation and to otherwise increase organ donation and recovery rates.

''(b) IOM REPORT ON LIVING DONATIONS.—

''(1) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine to conduct an evaluation of living donation practices and procedures. Such evaluation shall include, but is not limited to an assessment of issues relating to informed consent and the health risks associated with living donation (including possible reduction of long-term effects).

''(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit to the Secretary a report concerning the evaluation conducted under this subsection.

''(c) REPORT ON DONATION AND RECOVERY ACTIVITIES.—

''(1) IN GENERAL.—The Secretary as part of the report specified in 274d shall submit an evaluation concerning federally supported or conducted organ donation and recovery activities, including donation and recovery activities evaluated or conducted under the amendments made by the Organ Donation and Recovery Improvement Act to increase organ donation and recovery rates.

''(2) REQUIREMENTS.—To the extent practicable, each evaluation submitted under paragraph (1) shall—

''(A) evaluate the effectiveness of activities, identify best practices, and make recommendations regarding the adoption of best practices with respect to organ donation and recovery; and

''(B) assess organ donation and recovery activities that are recently completed, ongoing, or planned.''.

SEC. 105. TECHNICAL AMENDMENT CONCERNING ORGAN PURCHASES.

Section 301(c)(2) of the National Organ Transplant Act (42 U.S.C. 274e(c)(2)) is amended by adding at the end the following: ''Such term does not include familial, emotional, psychological, or physical benefit to an organ donor, recipient, or any other party to an organ donation event.''.

TITLE II—LIVING DONATION EXPENSES

SEC. 201. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.

Section 377 of the Public Health Service Act (42 U.S.C. 274f) is amended to read as follows:

''SEC. 377. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.

''(a) IN GENERAL.—The Secretary may award grants to States, transplant centers, qualified organ procurement organizations under section 371, or other public or private entities for the purpose of—

''(1) providing for the reimbursement of travel and subsistence expenses incurred by individuals toward making living donations of their organs (in this section referred as 'donating individuals'); and

''(2) providing for the reimbursement of such incidental nonmedical expenses that are so incurred as the Secretary determines by regulation to be appropriate.

''(b) PREFERENCE.—The Secretary shall, in carrying out subsection (a), give preference to those individuals that the Secretary determines are more likely to be otherwise unable to meet such expenses.

''(c) CERTAIN CIRCUMSTANCES.—The Secretary may, in carrying out subsection (a), consider—

''(1) the term 'donating individuals' as including individuals who in good faith incur qualifying expenses toward the intended donation of an organ but with respect to whom, for such reasons as the Secretary determines to be appropriate, no donation of the organ occurs; and

''(2) the term 'qualifying expenses' as including the expenses of having relatives or other individuals, not to exceed 2, who accompany or assist the donating individual for purposes of subsection (a) (subject to making payment for only such types of expenses as are paid for donating individual).

''(d) RELATIONSHIP TO PAYMENTS UNDER OTHER PROGRAMS.—An award may be made under subsection (a) only if the applicant involved agrees that the award will not be expended to pay the qualifying expenses of a donating individual to the extent that payment has been made, or can reasonably be expected to be made, with respect to such expenses—

''(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program;

''(2) by an entity that provides health services on a prepaid basis; or

''(3) by the recipient of the organ.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.''.

TITLE III—ORGAN REGISTRIES

SEC. 301. ADVISORY COMMITTEE.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 371 the following:

''SEC. 371A. ADVISORY COMMITTEE.

''(a) IN GENERAL.—Not later than 6 months after enactment, the Secretary shall establish an advisory committee to study existing organ donor registries and make recommendations to Congress regarding the costs, benefits, and expansion of such registries.

''(b) MEMBERSHIP.—The committee shall be composed of 10 members of whom—

''(1) at least 1 member shall be a physician with experience performing transplants;

''(2) at least 1 member shall have experience in organ recovery;

''(3) at least 1 member shall be representative of an organization with experience conducting national awareness campaigns and donor outreach;

''(4) at least 1 member shall be representative of a State with an existing donor registry;

''(5) at least 1 member shall have experience with national information systems where coordination occurs with State-based systems; and

''(6) at least 1 member shall represent donor families, transplant recipients, and those awaiting transplantation.

''(c) INITIAL MEETING.—Not later than 30 days after the date on which all members of the committee have been appointed, the committee shall hold its first meeting.

''(d) MEETINGS.—The committee shall meet at the call of the Chairman who shall be selected by the Secretary.

''(e) COMPENSATION.—Each member of the committee shall not receive compensation for services provided under this section.

''(f) TRAVEL EXPENSES.—The members of the committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the committee.

''(g) ADMINISTRATIVE SUPPORT.—The Secretary shall ensure that the committee is provided with administrative support or any other technical assistance that such committee needs in carrying out its duties.

''(h) PERMANENT COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the committee established under this section.

''(i) REPORT.—Not later than 1 year after the date on which the committee is established under subsection (a), the committee shall prepare and submit to Congress a report regarding the status of organ donor registries, current best practices, the effect of organ donor registries on organ donation rates, the merits of expanding organ donor registries, issues relating to consent, the efficacy of current privacy protections, potential forms of technical assistance, and recommendations regarding improving the effectiveness and establishing formal linkages between organ donor registries.

''(j) DEFINITION.—In this section, the term 'organ donor registry' means a listing of individuals who have indicated their desire to donate their organs and tissue upon their death through driver's license preferences or other formal mechanisms.''.

SEC. 302. NATIONAL LIVING DONOR REGISTRY.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.), as amended by section 301, is further amended by inserting after section 371A the following:

''SEC. 371B. NATIONAL LIVING DONOR REGISTRY.

''The Secretary shall by contract establish and maintain a registry of individuals who have served as living organ donors for the purpose of evaluating the long-term health effects associated with living organ donations.''.

SEC. 303. QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.

Section 371(a) of the Public Health Service Act (42 U.S.C. 273(a)) is amended by striking paragraph (3).

Mr. DODD. Mr. President, for tragic reasons, organ donation has been in the spotlight of late. On Saturday, February 23, 2002, 17-year-old Jessica Santillan died after receiving organs from a donor with an incompatible blood type. I would like to take this opportunity to express my heartfelt condolences to Jessica's family and friends.

While it is critical to understand how mistakes led to Jessica's death, and how they can be avoided in the future, this tragic incident should not diminish our commitment to organ donation—a procedure that saves thousand of lives each year, and was in fact Jessica's only chance for survival. Instead, we should make a commitment to increasing our donation rates and saving even more lives.

Today, I am pleased to reintroduce legislation with Senator BILL FRIST to do just that. The Organ Donation and Recovery Improvement Act, which Senator FRIST and I originally introduced last Congress, will bring positive attention to this critical public health issue by increasing resources and coordinating efforts to improve organ donation and recovery. I am proud to be working with my friend and colleague, Senator FRIST, whose leadership and professional experience as a heart and lung transplant surgeon has been critical in making this issue a priority.

At this very moment, more than 80,000 people are waiting for an organ transplant, and one person is added to this list every thirteen minutes. This list has increased from 19,095 people a decade ago. Unfortunately, the discrepancy between the need and the number of available organs is growing exponentially. From 1999 to 2000, transplant waiting lists grew by 10.2 percent, while the total increase in donations grew by 5.3 percent. Tragically, in 2000, approximately 5,500 wait-listed patients died waiting for an organ.

Undoubtedly, the task before our nation in caring for these patients seems daunting. However, each person who makes the decision to donate can save as many as three lives. None of us wants to imagine the anguish of watching a family member or a friend wait for an organ transplant hoping that their name reaches the top of the list before their damaged organ fails or having to bear the emotional, physical, or financial costs of undergoing a transplant procedure. For those that do, and for all of those that will, we must improve and strengthen our systems of organ donation and recovery. The legislation that Senator FRIST and I are introducing today represents a significant step towards this goal. It would establish a task force to evaluate and improve federal efforts relating to organ donation and transplantation research, and would also authorize $3 million in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 for grants to Organ Procurement Organizations to coordinate donation activities between hospitals.

A vital part of increasing donations lies in education and public awareness initiatives. This legislation would authorize $5 million in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 to educate the public about issues surrounding organ donation, as well as train health care providers and other appropriate professionals in the best methods to use when approaching possible donors and their families. This funding could also be used for other demonstration projects to increase organ donation and recovery rates. In addition, an equal amount is authorized to expand the Agency for Health Care Research and Quality's authority to improve organ donation practices.

We must also work to remove the barriers that stand in a donor's way as he or she seeks to help another person continue life. Our bill would seek to expand living donation by authorizing $5 million in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 for the reimbursement of related expenses incurred by the donor. In addition, this legislation requests an Institute of Medicine report on living donation practices and potential long-term health risks.

Finally, we must work to improve the science of donation and recovery, and address legal issues relating to donation, including consent. More than 20 states currently have registries that may prove indispensable in ensuring that we honor a donor's wishes. This bill would establish an advisory committee to study the benefits, and potential shortcomings, of these arrangements and work to create a national sense of urgency that matches the national need for donors.

I would like to recognize the invaluable support and guidance we received in drafting this bill from the American Society of Transplantation, the American Liver Foundation, the Patient Access to Transplantation Coalition, the North American Transplant Coordinators Organization, and the National Kidney Foundation. I would be remiss not to also mention the Association of Organ Procurement Organizations, whose members nationwide have worked so tirelessly to bridge the gap between the immense need for and the inadequate supply of donated organs. In my home state of Connecticut, we are well-served by the tremendous work of the Northeast Organ Procurement Organization and the New England Organ Bank.

Finally, I look forward to working with my colleagues, including Senator KENNEDY, Senator GREGG, and Senator DURBIN, whose commitment to this issue has been unparalleled. I urge Congress to take swift action on this bipartisan legislation aimed at increasing organ donation and saving lives.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 78—DESIGNATING MARCH 25, 2003, AS ''GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY''

Mr. SPECTER (for himself, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr.